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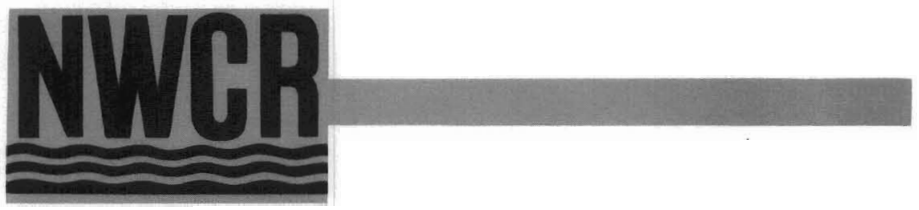

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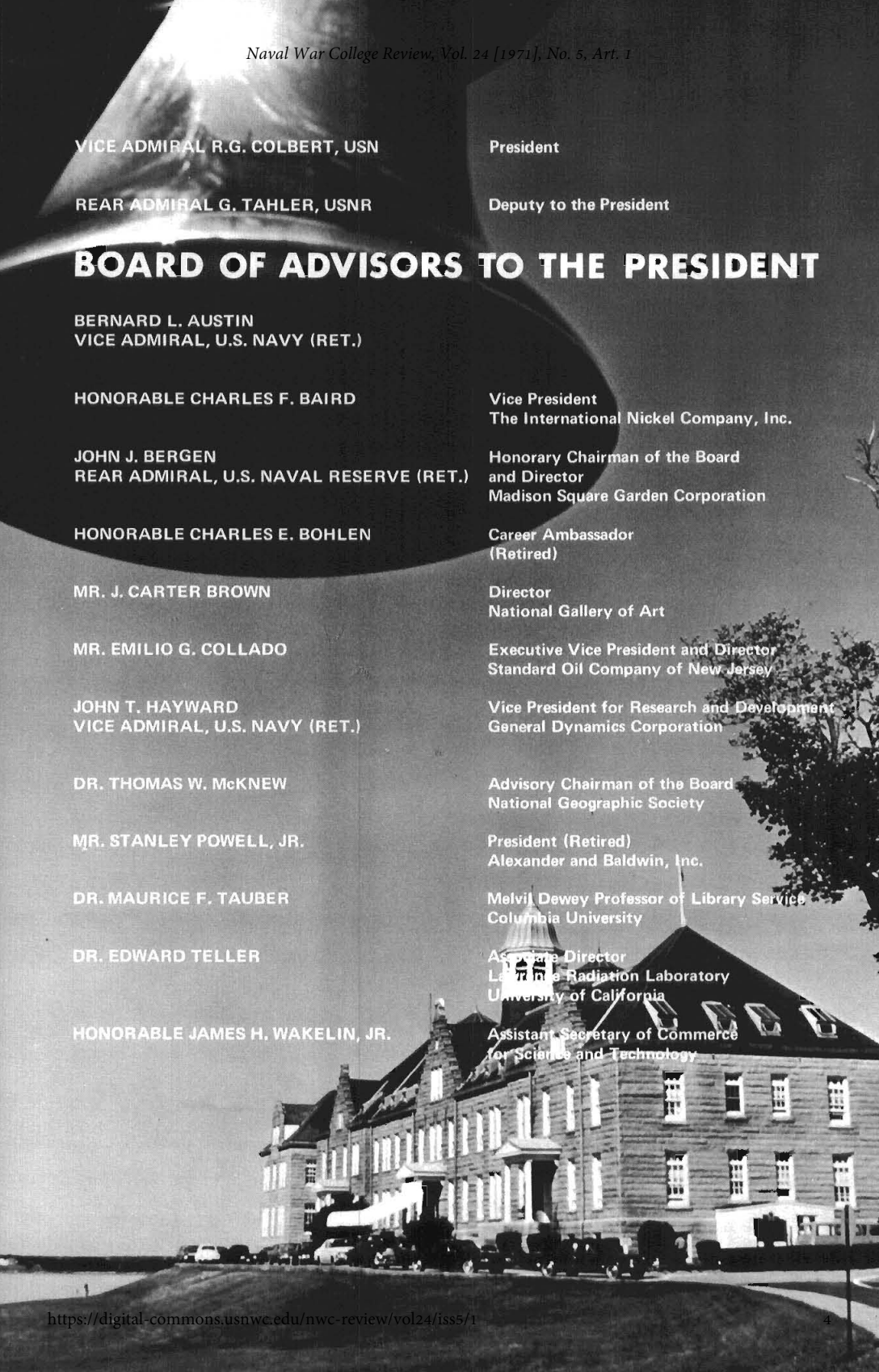

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CHALLENGE !

In its *Strategic Survey for 1968,* the London-based Institute for Strategic Studies observed that the United States had lost its "desire and ability to be the universal and dominant power." Our experiences "at home and abroad had exhausted" our "confident sense of purpose and ability." In the subsequent *Survey,* the ISS noted that while the pace of the U.S. retraction during 1969 was measured, "the tendency of the national will was nonetheless clear." Seemingly discouraged with two and a half decades of free world leadership, our Nation appeared—at least to many allies—to be withdrawing into the isolation of the 1930's.

Sensing the national mood, the Nixon administration sought early in its tenure to assure the Nation that we would no longer be the unilateral world "policeman" and that "America cannot —and will not—conceive *all* the plans, design *all* the programs, execute *all* the defense of the free nations of the world." For to the average American, the vital issue of the day was no longer solely the Communist world challenge. More important seemed to be the issues of domestic law and order, the breakdown in our standards of morality, inflation, drugs, the intolerable pressures of contemporary urban and industrial life, exploding technology and the inexorable changes it was bringing to human life, and, finally, education and how it could be made relevant to the disenchanted young.

Yet, despite these pressing internal domestic needs, the President also hastened to assure the world shortly after his inauguration that "America cannot live in isolation if it expects to live in peace. We have no intention of withdrawing from the world."

If there is a potential conflict between these two lines of reasoning, it is in the area of what precise U.S. reactions are likely under a wide variety of circumstances.

But is a certain degree of ambiguity really unique in American foreign policy? Or does it actually represent a continuation of a postwar policy (now a traditional policy) which always contained a large element of uncertainty?

When he appeared before the National Press Club in Washington in early 1950, Dean Acheson seemed to delineate in specific terms those geographic areas which we considered to be outside our sphere of interest. Yet, when North Korea invaded South Korea 6 months later, President Truman's response was immediate, belying the impression the Secretary of State had earlier given that South Korean independence was not considered vital to U.S. interests in Asia. In 1956, NATO unity and our own disaffection with Nasser's Egypt notwithstanding, we shocked our British and French allies by refusing to support and by doing all we could to thwart their efforts to force militarily a reopening of the nationalized Suez Canal.

Examples of our ambiguous foreign policy do not end there. Our policy toward Western Europe throughout the 1950's and 1960's surely embarrassed

more than one European leader trying to adapt his own domestic stance to the gyrations of our own actions. In the late 1950's we backed tactical nuclear weapons for our European allies, a policy related to the massive retaliation strategy of the Eisenhower years which was initially resisted across the Atlantic. By the time the Europeans were accepting that policy in 1961, however, we pulled the rug out, shifting to an advocacy of conventional weapons. Within 3 years, under President Kennedy, we once again altered our stance, calling for creation of a NATO Multilateral Nuclear Force (MLF), only to switch shortly thereafter under President Johnson to sudden withdrawal of support for MLF and backing for the Nonproliferation Treaty.

In an age of continuing technological, political, and military change, no nation—particularly a democracy—can afford to be bound by a set of concrete (and consistent) policy actions and reactions. One source of strength in our own foreign policy over the years has been its very flexibility—its ambiguity. No doubt this has frustrated our allies on all too many occasions and would certainly suggest U.S. policymakers ought to be more sensitive in this regard in the future.

More importantly, however, it has prevented potential foes from taking steps that might plunge the world into a fatal World War III. Certainly, specific statements such as the one issued by Secretary of State Acheson have been carefully avoided by our subsequent policymakers, and with good reason. In the competition with an astute cold war foe, our every word, action, and inaction is carefully watched and considered. While the American penchant for what would appear to be an *ad hoc* foreign policy has often managed to irritate our allies and frustrate students of international relations, it *has* managed to have one positive result: keeping the enemy off guard and the world from the abyss of global war.

No potential aggressor today can have the same conviction that encouraged Hitler following Munich about the improbability of an effective American response.

Perhaps President Nixon's pledge that "We shall meet both" our foreign responsibilities and the needs of our people at home "or we shall meet neither" may have seemed unrealistic to the Communist world when he stated it. But the Cambodian operation, occurring at the height of antiwar activity in this country, when many felt that we had lost our "will and determination," certainly took the world by surprise and subsequently proved to be an unquestioned military success. Similarly, with a challenging Soviet naval presence in the Mediterranean, the American 6th Fleet was moved decisively and quickly last October by our President and, through a strategy of interposition, insured against the fall of King Hussein and Jordan. Although today we can only speculate, historians of the future may show how this positive and prompt use of seapower avoided a major war. The positive, dynamic, and unexpected moves of our Government these last years since the invasion of Czechoslovakia have without question recast the image of our country.

The ramifications of a fluid policy have not been lost on the Soviets. As Moscow's leading "Americanist" and Director of the Institute of the U.S.A., Georgi A. Arbatov has recently commented, "Washington is trying to secure for itself great flexibility to create a situation in which the President and the American Government would have the possibility of a wider option between participation and non-participation in . . . any conflict and would have a wider freedom of action."

Maybe what appears to be our crisis-by-crisis approach to the relations be-

tween nations is not, after all, indicative of a vacillating or a "Caspar Milquetoast" spirit, as so many foreign and domestic observers of our national will might suggest. As I see it, while our immediate sights are turned to a long overdue concentration on domestic needs, our peripheral view is not blind to the exigencies of today's world—our responsibility to meet the threats to the security of the world in which we live. The ultimate strength of ambiguity in our foreign policy is that it provides the President the leeway, the flexibility so necessary to ensure that the United States never becomes so predictable that an enemy can exploit our "assured response." Today, in the light of strong U.S. leadership initiatives of recent years, the "Americanists" of the Kremlin must be in a quandary as they try to analyze the U.S. enigma.

R. G. COLBERT
Vice Admiral, U.S. Navy
President, Naval War College

ASYLUM DENIED:
The Vigilant Incident

The United States has for many years had a policy of granting political asylum to deserving refugees and defectors. On 23 November 1970, however, a Lithuanian seaman, Simas Ionovich Kudirka, attempted to defect to the United States via the Coast Guard cutter "Vigilant," and his request for asylum was denied. He was forcibly returned to his ship, the "Sovietskaya Litva," within the territorial waters of the United States. An examination of the facts and events surrounding this denial, the official and public reaction thereto, and some of the applicable precedents, Navy Regulations, and law regarding asylum reveals the manner in which the decision to deny the requested asylum was reached and certain possible inadequacies. Recommendations are made by the author in an effort to ensure appropriate handling of any future cases involving asylum.

A research paper prepared

by

Colonel Clyde R. Mann, U.S. Marine Corps

School of Naval Warfare

> There are three classes of people in the world. The first learn from their own experience—these are wise; the second learn from the experience of others—these are the happy; the third neither learn from their own experience nor the experience of others—these are fools.
>
> The Earl of Chesterfield[1]

Introduction. The attempt by Simas Ionovich Kudirka, a Lithuanian crewman on the *Sovietskaya Litva*, to seek asylum in the United States via the U.S. Coast Guard cutter *Vigilant* on 23 November 1970 and his forcible return to the Soviet fishing ship have been widely reported and discussed by the citizenry. The case has created such interest and controversy as to cause the author to study the matter in detail. It is not the purpose of this article, with the benefit permitted by the clarity of hindsight, to present a learned analysis of the legal principles involved nor to fix blame nor to criticize the Coast Guard, the Department of State, or any member thereof. Rather, the purpose of this article is to attempt to exclude all who read it from the last class of people listed by Chesterfield and to place them squarely in the wise and happy classes of people who learn from their own experiences and the experiences of others. Hopefully, the readers will analyze the reported facts and events and make their own judgments concerning fault and blame, if any, after carefully considering the many significant aspects of the case. Command and control, the decisionmaking process,

international law and politics, principles of military leadership, and concern for humanity are but a few of these aspects.

Although no formal conclusions as to fault or blame are drawn by the author, some recommendations are proposed to serve as guidelines for a U.S. commander who is confronted by a similar situation in the future.

The facts and events as reported herein are based upon a memorandum prepared for the President of the United States,[2] reports of official investigations by the U.S. Coast Guard[3] and the Department of State,[4] congressional hearings before a subcommittee of the Committee on Foreign Affairs of the House of Representatives and the subcommittee's report thereon,[5] and the author's personal interview of some of the participants and eyewitnesses.[6] Much of the material contained in the official investigation by the U.S. Coast Guard has been incorporated in this article in *hoc verba* in summarizing the events which occurred in the *Vigilant*, at the First Coast Guard District Headquarters in Boston, and at Coast Guard Headquarters in Washington. The material so used remains unrebutted after independent investigation by the author. A chronology of events is contained in appendix I.

The Rendezvous, Conference, Overtures of Defection, and Search for Advice. An offshore meeting between representatives of the New Bedford, Mass. fishermen, the National Marine Fisheries Service of the Department of Commerce, and the Soviet fishing fleet operating off the New England coast was arranged through appropriate diplomatic and other official channels. The purpose of the meeting was to discuss the allegation of the New Bedford fishermen that the Soviet fishermen were taking too many yellowtail flounder and that there should be some restriction of fishing for such species. The Soviet fishermen had denied any overfishing. Similar meetings with Soviet fishing fleets had been held in recent years off both the Atlantic and Pacific coasts. The U.S. Coast Guard cutter *Vigilant* (WMEC-617) was duly designated by the Commander, First Coast Guard District, Boston, Mass., to provide transportation for the U.S. delegation. The *Vigilant* is a medium endurance cutter, 210 feet in length, with a complement of 10 officers and 61 crewmen.

The U.S. delegation consisted of both civilian and Government officials. The fishermen were represented by Mr. Robert M. Brieze, president of the New Bedford Seafood Producers' Association; Mr. John Burt, the port agent for the New Bedford Fishermen's Union; and Mr. R.W. Nickerson, the resident director for the Seafood Association of New Bedford. The Assistant Regional Director, National Marine Fisheries Service, Department of Commerce, Mr. William C. Gordon, represented the United States. The delegation was accompanied by an interpreter, Mr. Alexis Obolensky from the National Marine Fisheries Service, Department of Commerce. In addition, Lt. Leo Morehouse from the Law Enforcement Division, Office of Operations, U.S. Coast Guard Headquarters in Washington, attended as an observer.

The U.S. delegation boarded the *Vigilant* at 8 a.m. on Monday, 23 November 1970. The ship got underway at 8:49 a.m. and at 10:30 a.m. came alongside and moored port side to the Soviet vessel *Sovietskaya Litva* which had anchored within the 3-mile limit, that is, within the territorial waters of the United States. The point of rendezvous was about 1 mile off Martha's Vineyard, Mass. The *Sovietskaya Litva* is a factory ship, a mother ship, approximately 500 feet in length, displacing about 14,000 tons, with a crew of about 150 men and 35 women. The Soviets prepared a guard boom rigged from the *Sovietskaya Litva*,

constructed of wires and secured to a net with an old truck tire at the bottom. This wire, net, and tire device, suspended from the boom by a cable, was used to transfer personnel between the two ships.

The U.S. delegation, together with Comdr. Ralph W. Eustis, the Commanding Officer of the *Vigilant*, boarded the Soviet vessel for the conference. They had a brief luncheon in the Soviet Fishing Fleet Commander's cabin before proceeding to a conference room to begin talks. After holding discussions for an hour or more, the group from the *Vigilant* was given a tour of the Soviet ship and returned to the conference room for more food, cognac, and talk. The Soviet conferees included the commanders of Lithuanian, Zapryba, Kalivingrad, and Latvian fishing fleets operating in the Atlantic Ocean off New England; the Chief Inspector for Safety of Navigation; the Chief Technologist; the Chief Master Catcher of the Zapryba Fleet; the Captain and the First Mate of the *Sovietskaya Litva.* Some of the Soviets appeared to be political and military officials rather than usual crewmembers. No armament was visible on the Soviet ship. Mr. Brieze, the president of the New Bedford Seafood Producers Association (a 1944 refugee from Latvia) speaks Latvian and was able to engage four Latvians on the Soviet ship in conversation. It appeared to the U.S. delegation that the talks were proceeding in a relatively successful manner.

While the conferees were taking care of the business at hand, some of the *Vigilant* and *Sovietskaya Litva* personnel were standing near the rails of the two ships laughing, talking, and exchanging cigarettes and candy. Some *Vigilant* crewmembers jokingly suggested to their opposites that they should come aboard the *Vigilant.* The Soviet ship personnel responded by drawing their fingers across their necks. It is not clear whether these gestures were in jest or otherwise. Some personnel from the *Vigilant,* officer and enlisted, visited the Soviet ship. Such personnel were permitted to view the ship's engineroom, medical facilities, mess deck, and movie theater. During one such visit, Ens. John F. Hughes from the *Vigilant* met a second mate from the Soviet ship who could understand some words of the English language.

Meanwhile, the first of several overtures by a single crewman from the Soviet ship indicating a desire to defect or to seek asylum was observed. At approximately 11:00 a.m., Lt. (jg.) Douglas A. Lundberg, the Operations Officer of the *Vigilant*, was on the port wing of the bridge when he noticed a crewman from the Soviet ship observing him closely from an upper deck about 8 feet across from him on the Soviet ship. This man was dressed in dark pants, sport shirt, and coat and was about 5 feet 6 inches tall, weighed about 140 pounds, and appeared to be very muscular. The man was later identified as Simas Ionovich Kudirka.

Kudirka made a comment which Lundberg thought suggested an intention to defect to the United States. Kudirka acted as if he did not desire to be detected by any of his shipmates. He looked over each of his shoulders and said, "gestapo, gestapo"![7] Lieutenant Lundberg immediately notified the Executive Officer of the *Vigilant,* Lt. Comdr. Paul E. Pakos, of his encounter with Kudirka. The Commanding Officer of the *Vigilant,* Commander Eustis, was on board the *Sovietskaya Litva* at this time. Pakos assigned Lundberg to the forecastle and Lt. (jg.) Richard E. Burke, Jr., the Communications Officer, to the fantail of the *Vigilant* to watch for Kudirka. Pakos went to the port wing of the bridge and saw Kudirka, who stated in broken English, "I will go with you" and later, "I will check." Kudirka then left, returned a few

minutes later, and stated, "Not too cold."[8] Pakos concluded that Kudirka was planning to jump into the water. By this time other members of the *Vigilant*'s crew had noticed Kudirka and his apparent unusual interest in the *Vigilant*. Boatswain's Mate Third Class Richard P. Maresca saw Kudirka acting suspiciously near the rail of the Soviet ship. Ensign Hughes saw Kudirka, and the latter tried to communicate with him, but his words were not understood by Hughes.

In view of Kudirka's continued manifestations of interest in the *Vigilant*, Pakos concluded by 12 m. that Kudirka might attempt to defect to the United States at any moment. He decided to tell only the *Vigilant*'s officers of Kudirka's possible defection. He instructed them not to encourage Kudirka and made sure that one of the ship's officers was always on the bridge in case Kudirka decided to communicate further with them. Lundberg was positioned on the port wing of the bridge. Pakos went below decks to draft a message to the First Coast Guard District in Boston. He decided to release the message and to attempt to get Commander Eustis back on board. The message was transmitted from the *Vigilant* at 12:43 p.m. (date time group 231743Z because the *Vigilant* was in time zone plus 5, therefore, all message communications traffic identified in Zulu time is 5 hours in advance of eastern standard time), the text of which follows:

A. MY 231558Z NOV 70
1. SITUATION: ALONGSIDE SOVIET MOTHER SHIP AS PER REF A. ESTIMATE 80 PERCENT PROBABILITY THAT ONE CREWMAN FROM SOVIET MOTHER SHIP WILL ATTEMPT DEFECTION TO VIGILANT. DEFECTION WAS NOT ENTICED. CREWMAN SPOKE IN BROKEN ENGLISH TO OPERATIONS OFFICER THAT HE WISHED ASYLUM. SAME MAN LATER INDICATED TO EXEC OFF THAT WATER NOT TOO COLD AND THAT HE WOULD SWIM. CO AND OTHER VISITORS STILL ABOARD AND UNAWARE OF SITUATION. WILL ATTEMPT TO ADVISE CO.
2. IF ESCAPE IS UNDETECTED PLAN TO RECALL ENTIRE DELEGATION UNDER FALSE PRETENSE AND DEPART. IF ESCAPE DETECTED FORESEE MAJOR PROBLEMS IF DELEGATION STILL ABOARD. REQ. ADVICE.
3. PLAN NO ACTION PENDING FURTHER DEVELOPMENTS.[9]

This message arrived at the headquarters of the Commander, First Coast Guard District at 12:49 p.m. Capt. Fletcher W. Brown, Jr., usually the Chief of Staff, was Acting District Commander. He had been so acting since 3 November 1970 when Rear Adm. William B. Ellis, the regular District Commander had gone on sick leave. When the message from the *Vigilant* was received, Captain Brown was out of the headquarters having lunch. He returned to his office at 1:07 p.m. at which time his secretary informed him of the *Vigilant*'s message. He went to the Communications Center, read the message, and directed that it be sent to the Commandant of the Coast Guard. The message was received at Coast Guard Headquarters at 1:28 p.m. As Captain Brown was leaving the Communications Center, he saw Comdr. Jerome V. Flanagan, the District Legal Officer, showed him the message, and asked for his advice. Flanagan stated that should the man defect, he should be turned over to the State Department or Immigration Service.

Captain Brown returned to his office at or about 1:18 p.m. and telephoned Rear Adm. Robert E. Hammond, Chief,

Office of Operations, at Coast Guard Headquarters in Washington. Brown indicated that he desired help on a problem, told Hammond about the message from the *Vigilant* and that it had been readdressed to Coast Guard Headquarters and that the ships were about a mile from Martha's Vineyard within territorial waters. They discussed the issues raised by the *Vigilant*'s message as they saw them and both concluded that the main issue was how forcefully the personnel of the *Vigilant* could compete with the personnel of the *Sovietskaya Litva* in retrieving the defector in the event he jumped into the water. They did not discuss possible courses of action to be taken in the event the person seeking asylum or defection actually came into Coast Guard hands by jumping from the Soviet ship to the *Vigilant* or otherwise. Hammond indicated he would seek guidance from the Department of State. At the completion of this telephone conversation, Hammond summoned Capt. Wallace C. Dahlgren, Chief, Intelligence Division at Coast Guard Headquarters, and briefed him on the conversation with Brown and the *Vigilant*'s message. Dahlgren was directed to contact the State Department for guidance on the problem of getting the defector out of the water. He was not asked to inquire as to U.S. policy with respect to defectors or persons seeking asylum. When the *Vigilant* message arrived at 1:28 p.m. Hammond took a copy thereof to the office of the Commandant of the Coast Guard and discussed the message and action being taken with respect thereto with Vice Adm. Thomas R. Sargent III, Assistant Commandant of the Coast Guard. He then returned to his office. He did not contact the office of the Chief Counsel for advice.

Captain Dahlgren returned to his office, after having received instructions from Rear Admiral Hammond, at about 1:30 p.m. and placed a telephone call to the Coast Guard Liaison Officer at the State Department. Shortly thereafter the *Vigilant*'s message was sent to the State Department. After some delay and several rereferrals, Dahlgren was, at 2:45 p.m., able to telephonically communicate with Mr. Edward K. Killham, Officer in Charge, Bilateral Political Affairs, Office of Soviet Union Affairs, Department of State, who considered himself to be the proper person to give advice on the matter. Dahlgren informed Killham that it appeared a seaman from a Soviet ship would attempt to defect to a Coast Guard cutter, that the *Vigilant*'s message had been sent to the State Department, and requested guidance. Mr. Killham stated that he would wait until he studied the message before he could comment on the situation. The message was received by him at 3 p.m. and at 3:15 p.m. he telephoned Dahlgren. Both of these gentlemen recall that the main topic of the conversation was the amount of force which could properly be used by Coast Guard personnel in competing with personnel of the Soviet ship in attempting to retrieve a man from the Soviet ship from the sea. Mr. Killham advised that the Coast Guard could exercise its traditional responsibility of search and rescue if the man was in the water.[10] It does not appear that Killham had been informed or was otherwise aware of the fact that the *Vigilant* and the *Sovietskaya Litva* were within the territorial waters of the United States. Neither Killham nor Dahlgren discussed the possible ways, other than being retrieved from the water, in which the defector could arrive aboard the Coast Guard ship. Killham saw three issues raised by the facts known to him: The possibility that the defection was not genuine and that it was a Soviet provocation attempt; the problem of the proper amount of force the Coast Guard could use to retrieve the man from the water; and, the problem of what to do if the defector

got in the *Vigilant* while Americans remained on board the Soviet ship. He advised Dahlgren that the Coast Guard should do nothing to entice the defector, that until the defector was on board the *Vigilant* the State Department could offer no further advice, but that once the man was on board, the State Department should be notified.

Mr. Killham later indicated that he believes his advice to Captain Dahlgren did adequately cover the possibility of what could be done if the man attempted to defect by jumping from the Soviet ship into the water but that further information was needed before the State Department could render advice relative to the problem of what to do if the defector got in the *Vigilant* while all or a portion of the U.S. delegation or *Vigilant* personnel were still on board the Soviet ship. It was for this reason that he advised Dahlgren that the State Department could give no further advice until the defector was on board and the State Department so notified. Mr. Killham later indicated that he did not specifically advise Dahlgren that the Coast Guard should retain the defector until advice was received from the State Department but that he could not imagine anyone returning a defector without first obtaining such advice.[11]

As soon as Captain Brown had completed his telephonic conversation with Rear Admiral Hammond, he placed a call to Rear Admiral Ellis, the regular Commander, First Coast Guard District, who was home on convalescent leave. The time was 1:20 p.m. when Brown briefed Ellis relative to the *Vigilant* message and his conversation with Hammond. Ellis indicated concern regarding the possibility of a defection because the Soviet vessel had entered U.S. territorial waters by proper invitation and a defection could disrupt the talks of considerable interest to the fishing industry. He was also concerned when he was informed that U.S. personnel were still on the Soviet ship. It was for these reasons that he told Brown, "If we get the defector, we should give him back."[12] After this conversation was completed, Brown turned to an officer on the staff and stated, "We are going to return the man."[13] The time was 1:30 p.m. Brown then went to the Communications Center where he drafted and sent his instructions in reply to the *Vigilant*'s message. The text of such message follows:

> A. YOUR 231743Z NOV 70
> 1. TAKE NO DIRECT OR OVERT ACTION. HOWEVER BE PREPARED TO LAUNCH SMALL BOAT IMMEDIATELY.
> 2. GET CDR EUSTIS BACK ABOARD USING ANY PRETEXT.
> 3. COMDT NOTIFIED OF SITUATION.
> 4. IF MAN GOES IN WATER GIVE USSR EVERY OPPORTUNITY TO RECOVER.[14]

This message was not received by the *Vigilant* until 3:36 p.m., about 2 hours after it was released with an operations immediate precedence.

Meanwhile, back in the *Vigilant*, Lieutenant Commander Pakos had already taken steps to notify Commander Eustis of the possible defection. At 12:45 p.m. he had sent a messenger to the Soviet vessel with two old search and rescue messages to deliver to Eustis as a stratagem to get him back aboard the *Vigilant*. Eustis returned to the *Vigilant* at 12:52 p.m. and was met by Pakos who said nothing about the possible defection until they had reached Eustis' captain's cabin. There Pakos told Eustis all the known facts concerning the possible defection and showed him the message he had earlier sent to the First Coast Guard District. Eustis concluded that even without encouragement from anyone in the

Vigilant an attempt to defect was inevitable and that such attempt would most likely occur while the ships were unmooring at the conclusion of the talks. He decided that the best course of action was to continue the talks as if no indication of a possible defection had been noted. As a precaution, he instructed Pakos to ensure there was no encouragement given to the possible defector by any member of the *Vigilant*'s crew. Eustis returned to the *Sovietskaya Litva* at about 1:45 p.m., and, while looking for the conference room, he met and was engaged in conversation by the Soviet First Mate, Smilir S. Grumaurker.

As all of the foregoing activity was taking place, Kudirka continued to attempt to communicate with Lieutenant Lundberg, by raising his eyebrows in an inquisitive manner, as if to query the propriety of the defection. Lundberg, in accordance with instructions received from Pakos, made no response and gave no signal to Kudirka. At about 2 p.m. Kudirka threw a package of Soviet cigarettes to Lundberg who was still standing on the port wing of the *Vigilant*'s bridge. Lundberg felt a bulge in the cigarette pack, said "thank you," and smoked one of the cigarettes on the bridge in an effort not to arouse any Soviet suspicion. He then went into the pilot house, tore open the cigarette package, and found a handwritten note about 2 inches square with handwritten matter on both sides. One side read:

> My dear Comrade I will up down of russians ship and go with you together. If it is a possible please give me signal. I keep a sharp lookout=Simas

The other side read:

> I up down in the time when the conference is End, and your delegats [sic] go into your ships a Signal.[15]

Lundberg passed this note to Pakos who immediately sent a messenger to the Soviet ship to recall Eustis to the *Vigilant* in the same manner as before. The messenger found Eustis still talking to the Soviet First Mate. The conversation was terminated, and Eustis returned to his ship where he was shown Kudirka's note. He prepared and released, at 2:23 p.m., a message (date time group 231923Z) to the First Coast Guard District, the text of which follows:

> A. MY 231743Z NOV 70
> 1. VIG CO AWARE OF SITUATION.
> 2. NOTE FROM SOVIET CREW MEMBER OF SOVEFTAUA [SIC] LITVA INDICATES ESCAPE ATTEMPT PLANNED WHEN VIGILANT IS READY TO DEPART.
> 3. REQUEST GAY HEAD CG HAVE SUITABLE BOAT STANDING BY OUTSIDE JETTY COMMENCING 231530Q. BOAT SHOULD BE INSTRUCTED TO REMAIN FAR AWAY FROM VIGILANT UNTIL VIGILANT HAD DEPARTED SOVIET VESSEL. AT THAT TIME BOAT SHOULD PROCEED TO VIGILANT FOR INSTRUCTIONS AND BE PREPARED TO PICKUP MAN IN WATER.[16]

Due to communications difficulties or failures, the above message, with an operations immediate precedence, was not received by the First Coast Guard District until 6:38 p.m. the same day. After he released the foregoing message, Eustis went to the bridge of the *Vigilant* where he observed Kudirka who spoke to him indicating that he might try to swim to the *Vigilant*. Eustis showed no indication of understanding or encouragement to Kudirka. Eustis departed the bridge and returned to the

Soviet vessel at 2:45 p.m. He entered the conference room where the talks were being held and quietly informed Mr. Gordon, the National Marine Fisheries Service representative, of the possible defection. He suggested that they try to conclude the conference as soon as possible. By the time all conversations and farewell toasts were completed, the time was approaching 4 p.m. The unmooring was not immediate, however, because the Soviet Fleet Commander had earlier expressed a desire to visit the *Vigilant*. Eustis felt obliged to invite a group of about a dozen Soviet officers aboard the *Vigilant*. They remained on board a few minutes and began departing shortly after 4 p.m. in groups of three or four inasmuch as the transfer net would not comfortably hold more. Eustis stopped by his cabin on the way to the bridge to make preparations for unmooring and getting underway.

Back in Boston, Captain Brown had gathered Capt. William E. Murphy, Comdr. John F. Curry, and Comdr. Jerome V. Flanagan, the Acting Chief of the Operations Division, the Chief, Intelligence and Law Enforcement Branch, and the District Legal Officer, respectively, in his office for a conference. They discussed the prospective defection in general terms and specifically discussed what to do if the defector got into the water or if he somehow got in the *Vigilant*. They talked about cases of defection and asylum they had read or heard about in the past. The consensus was that a final decision on the issue of returning the defector to the Soviet ship should be based upon guidance from the Commandant of the Coast Guard and/or the State Department. Flanagan reiterated his view that if the defector got aboard the *Vigilant*, the Coast Guard should keep him on board, take him to Boston, and turn him over to the State Department or Immigration Service. The conference terminated shortly before 3:30 p.m. at which time Brown telephoned Rear Admiral Ellis at his home. He told him that he had heard nothing further from the *Vigilant* (as noted above, the *Vigilant* message advising him of Kudirka's note was released at 2:23 p.m. but was not received at the District Headquarters until 6:38 p.m.), and he had received no guidance from Coast Guard Headquarters in Washington. He then informed Ellis of the consensus of the opinion of his staff officers with whom he had just finished conferring. Ellis stated that his mind was not changed by such consensus of opinion of the staff officers because there were no known new facts.[17]

Captain Dahlgren telephoned Captain Brown in Boston at 3:45 p.m., related the advice Mr. Killham had given and that the State Department had requested to be notified when the man was on board the *Vigilant*. Shortly thereafter, Captain Dahlgren returned to Rear Admiral Hammond's office and briefed him on what had occurred since their last meeting.

Captain Brown telephoned Rear Admiral Hammond in Washington at 4:12 p.m. and stated that he had not received any further information from the *Vigilant*. The two men discussed the nature of the advice received from the State Department. Hammond told Brown to call Coast Guard Headquarters when the defector was on board the *Vigilant*. There was no discussion regarding return of the defector to the Soviets. Brown asked whether he should catch his regular commuter service to his residence. Hammond told him that there did not appear to be any reason why he should not go home. Captain Dahlgren was in Hammond's office and was also on the telephone with Brown and Hammond during the foregoing conversation.

Lt. (jg.) Wayne D. Tritbough, the duty officer in Coast Guard Headquarters Flag Plot, was briefed in Rear

Admiral Hammond's office on this matter. If there was a defection he was to be advised by someone from the First District in Boston and he was to pass such information to the State Department. Trithough had the impression that once the defector was in the *Vigilant* the State Department would determine what further action was to be taken. He recalls having heard nothing said concerning returning the defector to the Soviets.

At approximately 4:30 p.m. Captain Dahlgren telephoned Mr. Killham at the State Department and told him that no further information regarding the defection had been received from the First Coast Guard District. He advised Killham that the Coast Guard Flag Plot duty officer would keep the State Department informed if anything further developed. Thereafter, Killham briefed his assistant, Mr. Edward A. Mainland, Desk Officer, Bilateral Section, Office of Soviet Affairs, Department of State, who was the Soviet Desk duty officer for that evening. Neither Killham nor Mainland briefed the State Department Operations Center watch officer regarding this matter.

In Boston, Captain Brown left his office at 4:30 p.m. without further discussing the matter with his staff. Brown did not assign anyone on his staff, and no one assumed, responsibility with respect to this case. Captain Murphy and Commander Curry did, however, call the First District Headquarters later in the evening for briefings on the status of the matter.

The Defection and Resulting Action. Meanwhile, back in the *Vigilant*, evening colors were held at 4:08 p.m., and it was dark within a few minutes thereafter. At 4:15 p.m. only three of the Soviet officers who had been invited aboard remained on the *Vigilant*. Lieutenant Commander Pakos was on the port wing of the bridge. He noticed Kudirka was standing opposite him on the Soviet ship. Kudirka looked down at the forecastle as if to ask whether that would be a good place to come aboard the *Vigilant*. Pakos was, however, looking down toward the boat deck. Kudirka stared at Pakos. Pakos shrugged his shoulders. Kudirka disappeared from Pakos' view. A few minutes later, at about 4:20 p.m., Kudirka surprised Pakos as he appeared on the bridge of the *Vigilant*. He had apparently jumped from the Soviet ship to a lower deck level of the *Vigilant*. Kudirka embraced Pakos and called him "comrade."[18] Kudirka seemed to be very happy. Pakos quickly removed Kudirka from the bridge and had him taken to the watchstander's head. Pakos assigned Lt. (jg.) Richard E. Burke, Jr., to guard the defector but had Burke relieved by a crewmember a few minutes later. Commander Eustis was still in his cabin when Pakos arrived and reported that the defector was aboard the *Vigilant*.

Commander Eustis concluded that he would have a problem if the Soviets had observed or were aware of the defection. He went to the bridge and there observed three Soviet officers still standing on the *Vigilant*'s flight deck but making no effort to return to their ship. Eustis returned to his cabin. He was not aware of the specifics of U.S. policy regarding political asylum but had heard of other defections, and he thought Kudirka would be granted asylum. He did not consider returning Kudirka to the Soviets. Lieutenant Morehouse, the observer from Coast Guard Headquarters, entered Eustis' cabin and was informed of the defection. Eustis asked his advice to which Morehouse replied that Washington should be advised. The two officers went to the bridge to contact the First Coast Guard District and report the fact that the defector was on board the *Vigilant*. Lieutenant Lundberg was interviewing Kudirka about this time. He was the first of the *Vigilant*'s officers to do so.

Commander Eustis called the First District Headquarters, requested a telephone patch with either Captain Brown or Commander Curry, and was informed that neither one of them was available as they were en route to their homes. He then called Rear Admiral Ellis at 5:15 p.m. Eustis told Ellis that the defector was aboard but the Soviets had not yet asked for his return. Ellis replied,

> In view of the nature of present arrangements with them and in the interest of not fouling up any of our arrangements as far as the fishing situation is concerned, I think they should know this and if they choose to do nothing, keep him on board, otherwise put him back.[19]

Eustis acknowledged these instructions and commented that if the defector jumped overboard from the Soviet ship after having been returned and as the *Vigilant* departed, he would attempt to pick him up. Ellis replied that, in that event, the Soviets should have the first opportunity to pick him up and at the same time he cautioned Eustis to make sure the *Vigilant* did not preempt the Soviets in taking that action. Eustis then stated that the *Vigilant* would get underway shortly and he would keep the District advised of the situation as it progressed.[20]

At the conclusion of the telephone patch, Rear Admiral Ellis told Lt. Kenneth N. Ryan, the duty officer at the Rescue Coordination Center, District Headquarters, to contact Captain Brown and inform him of the conversation with Commander Eustis. Ellis stated he realized that he had interjected himself between Brown and Eustis.

Back in the *Vigilant* the time was 5:20 p.m. and Lieutenant Morehouse had gone to Commander Eustis' cabin and found four Soviets there, including Fleet Comdr. Ivan A. Burkal, Commander of the Lithuanian Fleet, and the Soviet interpreter, Genrikar K. Baltrunar. Mr. Gordon and Mr. Obolensky were also present. The Soviets just sat quietly without making any conversation. No one said anything about Kudirka.

After talking to Rear Admiral Ellis, Commander Eustis went to see Kudirka. He spoke with him for a period in excess of one-half hour, during which time Kudirka stated he was married and his home was Klaipeda, Lithuania, a Baltic port city. Eustis was convinced that Kudirka was sincere in his desire not to return to the Soviet ship.

At 5:40 p.m. the *Vigilant* called the Coast Guard Group, Woods Hole, Mass., and requested a small craft to rendezvous with them for reasons of "utmost political importance."[21] At 5:44 p.m. the Woods Hole Group called Lieutenant Ryan, the duty officer at the Rescue Coordination Center, District Headquarters, to determine the reason for the request. Ryan told them to have a "44 footer" stand by to assist the *Vigilant*.

The Soviet officers aboard the *Vigilant* indicated to Mr. Obolensky, at about 5:45 p.m., that they knew a crewman from their ship was aboard the *Vigilant*. Mr. Obolensky mentioned this to Lieutenant Morehouse who was also in Commander Eustis' cabin. Morehouse left the cabin, located Eustis, and told him the Soviets knew the defector was on board the *Vigilant*. They discussed several courses of action relative to keeping Kudirka secure and out of sight. Eustis was reluctant to go below to his cabin as he anticipated possible Soviet demands for the defector's return. The Soviets, however, made no effort to approach Eustis for this purpose.

Lieutenant Ryau telephoned Captain Brown's residence at 5:47 p.m. in order to inform him of the earlier conversation at 5:15 p.m. between Rear Admiral Ellis and Commander Eustis. Brown had

not as yet arrived home, but upon his arrival at about 6 p.m. he immediately called Ryan. Brown was told of the conversation between Ellis and Eustis and the instructions issued by Ellis. Ryan also told Brown of the *Vigilant*'s request for the small craft from Woods Hole. Brown commented to Ryan that the preferred course of action might be to keep the defector in the *Vigilant* and take him to New Bedford. He then directed Ryan to notify Flag Plot at Coast Guard Headquarters that the defector was aboard the *Vigilant*. They decided, however, that they should first contact the *Vigilant* to ascertain if the defector was still on board. At 6:11 p.m. Ryan reached the *Vigilant* by means of a telephone patch. Eustis left the watchstander's head, where he was talking to Kudirka, to take the call. He told Ryan the defector was still on board, that Kudirka was in fear of his life, and that Kudirka had indicated that regardless of what the Coast Guard did, he would go over the side and hope for the best. Eustis requested a telephone patch be made with Brown.

The telephone patch with Brown was completed at about 6:15 p.m. Eustis told Brown that the defector and four other Soviets were aboard the *Vigilant*, that the defector was sincere in his intent to defect, and of the defector's comments regarding going over the side. He also told Brown that the Soviets knew the defector was on board the *Vigilant*, but that he thought the Soviets on board the *Vigilant* would leave if so requested. Brown, at this time, stated, "This is a situation which is going to have to be resolved by the State Department."[22] He instructed Eustis to request the Soviets to return to their ship. This conversation concluded with a comment by Brown that he was going to call Rear Admiral Ellis. Brown instructed Lieutenant Ryan to wait before calling Flag Plot at Coast Guard Headquarters. The time was 6:38 p.m.

Captain Brown called Rear Admiral Ellis immediately after the foregoing conversation was terminated, apologized for interrupting his dinner, told him he had just talked with Commander Eustis and what the latter had said. Brown also told Ellis that he had instructed Eustis to keep the defector in seclusion and to ask the Soviets on board the *Vigilant* to leave in order to give the First District time to contact the Commandant of the Coast Guard for further advice. He informed Ellis that the only advice he had received from the Commandant up to that time concerned what to do in the event the defector jumped in the water. He did not tell Ellis that the Commandant wanted to be kept advised of developments in the case. Ellis told Brown that the *Vigilant* should not return the man without a request from the Soviets, but if they did make such a request the defector should be returned to them.[23]

Captain Brown made a telephone patch with the *Vigilant* at 6:45 p.m. and talked with Lieutenant Commander Pakos initially and later Commander Eustis. Pakos told him that Eustis was in the process of asking the Soviets to return to their ship. Brown wanted to know whether the Soviets had been asked if they desired the defector's return. He told Pakos that if the Soviets had requested the defector's return, the man was to be returned to the Soviet vessel. Pakos told him that he would pass these instructions to Eustis and would call him right back. The time was 6:47 p.m. As Brown waited for the return call, he telephoned Rear Admiral Ellis at 6:48 p.m. and reported Commander Eustis' earlier statement regarding the possibility that the defector would go over the side of the Soviet ship if he was returned. The decision to return the defector, if so requested by the Soviets, was not altered by this bit of information. At 6:54 p.m. Eustis talked to Brown, acknowledged that Pakos had passed the instructions to him, stated that the Soviets had not

made a formal request for the defector's return, and expressed the opinion that if the defector was returned to the Soviets his life would probably be in jeopardy. At that point Brown directed Eustis to get a positive answer from the master of the Soviet vessel as to whether he wanted the defector returned to the Soviet ship. Brown again stated that if the Soviets wanted the defector back he would be returned to the Soviet vessel. At this point Eustis indicated that Mr. Gordon, the representative of the National Marine Fisheries Service, Department of Commerce, was standing by to offer his informed opinion on the matter, but Brown stated the fisheries agent had no responsibility in the case of the defector. Eustis stated that he anticipated the Soviets would make a request for the defector's return and again commented that Kudirka said he would make an attempt to jump into the water once he was back aboard the Soviet ship.

Commander Eustis was ordered by Captain Brown to take all necessary precautions to prevent an incident from occurring, particularly during the transfer of the defector from the *Vigilant* to the *Sovietskaya Litva*. Brown emphasized during this conversation that there must be a formal request from the Soviet master of the defector's ship before the defector could be returned. The conversation was terminated at 7:28 p.m.

At 7:30 p.m. Captain Brown telephoned Rear Admiral Ellis and informed him of Commander Eustis' concern for Kudirka's safety and his opinion that Kudirka's life would be in jeopardy if he was returned to the Soviets. To this Ellis responded, "I don't think we have any reason to believe that this would happen. They are not barbarians."[24] Ellis concluded that the information regarding Eustis' concern for Kudirka's well-being did not change the situation so as to affect his earlier decision to return Kudirka to the Soviets. This telephone call concluded Ellis' involvement in the case for 23 November 1970. He neither received nor made any additional calls concerning the matter that date.

At 8 p.m. the Soviets presented a written document which requested Kudirka's return. The document was addressed to the Leader of the United States Delegation as well as the Captain of the *Vigilant* and was signed by the Captain of the *Sovietskaya Litva*, Vladimir M. Popov. The text of the request follows:

> During our meeting on November 23, 1970, the radio operator KUDIRKA penetrated into my stateroom, forced the safe, took money from the safe in the amount of 3,000 rubles jumped over the fender and hid on your vessel. Request you conduct a search and return him to my vessel. I lodge a maritime protest on this matter.[25]

Commander Eustis considered the above written request to satisfy Captain Brown's requirement of a "formal request."

At 8:04 p.m. Mr. Gordon placed a telephone patch to someone he knew in the State Department but could not locate him. Mr. Obolensky and Mr. Gordon suggested that Commander Eustis carry Kudirka back to the U.S. mainland and require the Soviets to seek his return to them through diplomatic channels. Lieutenant Morehouse advised Eustis that the State Department should be contacted.

Commander Eustis called Captain Brown at 8:19 p.m., via telephone patch, informed him that he had the written request for Kudirka's return, that he intended to return the defector to the Soviet vessel, that the *Vigilant* would escort the Soviet vessel from the territorial waters of the United States, that should the defector jump into the

water after having been returned to the *Sovietskaya Litva* the *Vigilant* would stand clear and make no attempt to rescue him unless his safety or life was in jeopardy. Such plan of action was consistent with the instructions of Rear Admiral Ellis as given in the 5:15 p.m. conversation and with those in Captain Brown's conversation at 6:45 p.m. Brown told Eustis to proceed in accordance with his total message.

Commander Eustis informed the Soviets that Kudirka would be returned to the Soviet ship. He then went to visit Kudirka and asked him to voluntarily return to the Soviet ship. After some conversation, Eustis thought he had convinced Kudirka to voluntarily return because Kudirka went with him from the watchstander's head to the commanding officer's cabin. Upon arrival at such cabin, Kudirka saw Fleet Commander Burkal, stopped, cried "no, no," turned, and ran away from the cabin.[26] Eustis followed him, conversed with him again, but was unable to persuade him to return to the Soviet ship. Finally, at about 9 p.m., Eustis told the Soviet officials still on board the *Vigilant* they could take Kudirka back with them. At that time the Soviet officers went to talk with Kudirka. Fleet Commander Burkal spoke with him. The conversation was heated, and Kudirka vehemently insisted that he would not return to the Soviet ship under any circumstances. At 9:30 p.m. the Soviets had also been unable to persuade Kudirka to voluntarily return to the Soviet ship. They were reluctant, however, to use force. They requested Eustis to use his crewmen to return the defector to the *Sovietskaya Litva.* Eustis' refusal of such request resulted in a Soviet request that a telephone call be placed for them to the Soviet Embassy in Washington. Eustis asked his radioman whether such a call could be made. Thinking he desired the line, the radioman placed the call at 9:45 p.m. The telephone patch between the *Vigilant* and the Soviet Embassy remained open for approximately 5 minutes, but no communication was passed. Eustis later indicated that he did not want the Soviets calling their Embassy from his ship until the Coast Guard and the State Department had been notified of their desire to do so.

Back in Boston, immediately after the 8:19 p.m. telephone conversation between Captain Brown and Commander Eustis, Lieutenant Ryan, who had been listening to that conversation, suggested to Brown that Coast Guard Headquarters be contacted concerning the case. Brown concurred. At 8:24 p.m. Ryan called Flag Plot at Coast Guard Headquarters and talked with Lieutenant Trithough. He reported that the defector had gotten aboard the *Vigilant* and had asked to remain but was being returned at the request of the Soviet master and that the defector was being returned in the custody of Soviet officials. Ryan also indicated that the defector did not desire to go back to the Soviet ship, and it was anticipated that he would jump overboard therefrom if he had the chance. He informed Tritbough that the *Vigilant* was alerted to this possibility.

Lieutenant Tritbough had been briefed on this matter earlier in the day and had expected the telephone call from Ryan. He logged the telephone call in the Flag Plot Log at 8:30 p.m. He had taken notes of what he considered to be the important points of the conversation in order to telephonically brief Rear Admiral Hammond, the Chief of Staff, the Assistant Commandant, and the Commandant of the Coast Guard. All the foregoing telephone calls were made within 15 minutes after the telephone call was received from Boston. After receiving the call from Tritbough, Hammond concluded that the information Tritbough was passing meant that the return of the defector was in the process of taking place, or had already taken place by that time,

and the case was closed. In fact, however, the return of the defector did not take place until more than 3 hours later, as will be subsequently reported in this article. Hammond also concluded that the defector had voluntarily returned to the Soviet ship. This conclusion was also erroneous.

Lieutenant Tritbough telephoned the State Department Operations Center at 8:45 p.m. and talked with Mr. Kevin J. McGuire, the assistant watch officer. Neither the senior nor the assistant watch officer at the Operations Center had received any specific instructions concerning this case, but a copy of the *Vigilant*'s 12:43 p.m. message was posted on the Operations Center reading board. Although there were tape recorders present in both the Flag Plot duty office and the State Department Operations Center, neither of these machines were functioning. There is no transcript or recording of the conversation between Tritbough and McGuire. This is unfortunate because the evidence is in dispute as to what was said concerning certain matters. Lieutenant Tritbough claims to have used his notes to relate the substance of the message he had received from Lieutenant Ryan in Boston to McGuire. He states that he said the defector "is being returned" and that the *Vigilant* would escort the Soviet ship to international waters. He further states that he used no words which, in his opinion, suggested that the matter had been finally resolved.[27] Tritbough requested that his report be passed to the Soviet Desk within the State Department. McGuire, on the other hand, states that Tritbough told him the case had been resolved. As earlier noted, Lieutenant Tritbough denies using any words which suggested the matter had been finally resolved. Mr. McGuire also claims that he read a summary of their conversation to Lieutenant Trithough and the latter approved it before the conversation ended. Lieutenant Trithough does not recall any such reading or giving his approval of any such summary.[28]

Mr. McGuire, at the suggestion of the senior watch officer, notified the European Area duty officer that evening and Mr. Mainland, the Soviet Desk duty officer. Mainland telephoned Flag Plot at Coast Guard Headquarters, awakened Lieutenant Trithough at 11:30 p.m., and asked if there were any new developments in the case. Trithough informed Mainland that he had received no new information since his last report to the State Department, but a situation report was expected the next morning.

As the foregoing activity was taking place in Washington, the problems in the *Vigilant* had not subsided. Commander Eustis and Lieutenant Commander Pakos discussed the situation, and Pakos had drafted a message which he proposed be sent to the First District and an information copy be sent to the Commandant of the Coast Guard. The message recommended that the *Vigilant* depart the Soviet vessel with the defector on board and that the State Department decide what to do with him as an alternative to the instructions issued to the *Vigilant* thus far in the case. Eustis decided not to use the message because he considered that sending an information copy to the Commandant would not be following the chain of command. He assumed that Coast Guard Headquarters had been kept properly informed. Instead of sending the message, its important points were summarized as a note for Eustis to refer to in a telephone conversation with Captain Brown. The three important points of the note were that the Soviets were reluctant to use their own men to forcibly return the defector to the Soviet ship, that the Soviets desired to consult with their Embassy in Washington, and that Eustis recommended an alternate solution of the problem by retaining Kudirka on board the *Vigilant* and requiring the Soviets to request his return through

diplomatic channels. Eustis called Brown at 10:14 p.m. advised him that the situation aboard the *Vigilant* was tense, and that force would be necessary to return the defector to the Soviet ship. Eustis does not recall whether he communicated all three of the above enumerated points to Brown because during the conversation Brown said, "You have your orders. You have no discretion. Use whatever force is necessary. Do not let an incident occur."[29] Brown's attitude was formal and firm at the time. Eustis concluded that he had received a direct order and that he must comply therewith.

The Return. After his last conversation with Captain Brown, Commander Eustis returned to his cabin and reluctantly told the Soviets, "He's all yours."[30] The Soviets told Eustis they wanted to use six men to return Kudirka. Eustis suggested that the Soviets then present take Kudirka themselves, but they declined to do so. He then realized that they considered that it would not be proper for them as officers to struggle with one of their crew. For that reason, Eustis decided that they would be permitted to bring three crewmen aboard the *Vigilant* in order to return Kudirka to the Soviet ship. Eustis has later stated that he decided to permit the Soviets to come aboard the *Vigilant* to remove Kudirka for three reasons: He felt that adverse publicity could result from the use of Coast Guardsmen to forcibly return a defector to the Soviets; if the defector went overboard and was lost while Coast Guardsmen were attempting to return him, they might be accused of letting him escape; and, he was concerned with the possible effect personnel participation in the forcible return of the defector would have on the morale of his own crew.

Five Soviet crewmen were transferred to the *Vigilant* by means of the personnel net, instead of three, as authorized by Eustis. These Soviet crewmen brought a blanket, rope, and a ball of material which appeared to be socks. A Soviet crewman indicated the ball of material was to be placed in the defector's mouth. One of the Soviet crewmen was the second mate with whom Ensign Hughes had been able to converse earlier in the day. At about 10:45 p.m. Eustis escorted the Soviets to Kudirka where he again talked with Kudirka and the Soviet Fleet Commander. Kudirka persisted in his refusal to return to the Soviet ship. He asked for a knife for the stated purpose of killing himself. The request was, of course, denied. Kudirka told Eustis he would fight anyone who tried to take him off the *Vigilant*. At this point, Eustis turned Kudirka over to the Soviets. Before starting to move to a lower deck of the ship with the Soviets, Kudirka removed his shirt, emptied his pockets, and gave all his personal possessions, including some notes, books, and papers, to Eustis. It is noted that none of the rubles which the Soviets alleged Kudirka had stolen were in his possession at this time.

The Soviet party started down to the lower decks with Kudirka. As they neared the captain's cabin, where the civilians in the U.S. delegation were located, Kudirka broke away and attempted to enter the cabin. He managed to open the cabin door before he was grabbed by the Soviets who tried to break the grip he had on the cabin doorknob. As this occurred, Mr. Brieze attempted to push the Soviets away from Kudirka, but Mr. Gordon informed him that there had been orders to return Kudirka and that they must not interfere. The Soviets then took Kudirka to the port boat deck. The time was about 10:50 p.m. Enstis returned to his cabin as mooring stations were piped, and the word was passed to prepare to get underway. Upon arrival on the port boat deck, Kudirka broke loose from the Soviet party but was

partially restrained by the Soviets underneath the port motor lifeboat where the struggle continued. Kudirka then broke loose, went over the side of the port boat deck, and personnel in the *Vigilant* thought he went overboard into the water between the two ships. Actually, however, he had swung down to the main deck. "Man overboard" was sounded throughout the *Vigilant.* While this action was taking place, a large number of Soviet crewmen had gathered at the rail of the Soviet ship. As they followed the struggle between the Soviets and Kudirka a few feet away on board the *Vigilant*, they screamed, yelled, and pointed, creating a substantial commotion. These crewmen on the *Sovietskaya Litva* had seen that Kudirka had not gone overboard, and they tried to point him out to his Soviet pursuers.

The time was about 11:00 p.m. The ships were moored about 3 feet apart. Thinking that the defector might be crushed between the ships and recognizing the potential for trouble in this tense situation, Eustis gave the order to unmoor the *Vigilant* and to get underway immediately. Inasmuch as the mooring lines were belayed or turned around cleats aboard the Soviet vessel, all but two lines were let go by their bitter or inboard ends. The two other lines were cut with axes. During the unmooring, Eustis was on the bridge and had control of the ship. In backing straight down and standing clear of the Soviet vessel, the yard boom net rigged from the Soviet ship knocked down the *Vigilant*'s antennas, carried away the forward port life lines and a port running light, and damaged three or four stanchions.

As noted above, Kudirka did not go overboard as many thought when he broke away from the Soviets and went over the side of the port boat deck. He swung from the port boat deck to the main deck and ran aft on the port side onto the fantail of the *Vigilant.* Once on the fantail, he ran about as if he did not know what to do or where to go. Two pursuing Soviets arrived on the fantail. When Kudirka saw them he attempted to climb over the starboard taffrail but was grabbed by two Coast Guardsmen who acted spontaneously in order to prevent a person from going overboard. Within seconds the two pursuing Soviets took custody of Kudirka after having taken him away from the two men who prevented him from going overboard. Two more Soviets arrived and joined in the struggle to subdue Kudirka. As they dragged him toward the ladder leading up to the flight deck, Kudirka was trying very hard to escape from their grasps. He was carried up the ladder to the flight deck. In the process of doing so, one Soviet repeatedly struck Kudirka's head against the steel handrail of the ladder. Coast Guard crewmen on the fantail saw no blood or other visible signs of injury on Kudirka. The commotion on the fantail was not reported to the bridge by the crewman manning the mooring station sound-powered telephone.

Earlier when "Man overboard" was sounded, Ensign Hughes went to the port side of the flight deck to look for the man in the water. Subsequently he saw Kudirka being brought up the ladder from the fantail to the flight deck by the four Soviets. As the Soviets took Kudirka to the forward end of the flight deck, Hughes was able to stop one of the Soviets from beating Kudirka by talking to the Soviet second mate who understood some English and with whom he had talked earlier in the day. The second mate passed directions from Hughes to the rest of the Soviets attempting to control Kudirka. Hughes reported to the bridge that the Soviets were having difficulty restraining Kudirka. He returned to the flight deck, and upon his arrival he stopped the Soviets from beating Kudirka and tying him to a winch. The Soviets had tied a line around Kudirka's neck. Hughes returned to the bridge and reported that

the Soviets appeared to be trying to seriously injure Kudirka. Lieutenant Commander Pakos directed him to prevent the Soviets from hurting the defector.

Hughes returned and moved the Soviets and Kudirka further forward on the flight deck. He received instructions from Pakos to take them to the mess deck. When the Soviets refused to go to the mess deck, Pakos ordered Hughes to take them to the helicopter shack on the forward end of the flight deck. The Soviets took Kudirka inside the helicopter shack as directed. Hughes stationed two Coast Guard gunners mates outside the area where the Soviets and Kudirka were located. Hughes departed briefly, and upon his return the Soviets were again roughing up Kudirka. Hughes was again able to stop the Soviets by talking to the second mate. As indicated, Hughes was able to stop the Soviet brutality several times, but whenever he was momentarily away from the Soviets they resumed mistreating Kudirka.[31]

Orders for the *Vigilant*'s crew to lay below were passed via the ship's public address system. Hughes and the two gunners mates had kept the ship's crew off the flight deck, directing them not to get involved.

While Kudirka was in the helicopter shack, the Soviets wrapped him in the blanket and tied him up with the line they had brought with them from the Soviet ship. The Soviets attempted to put the blanket over his head, but he successfully resisted their efforts to do so. Kudirka had fought vigorously until he was completely bound, except for his head, in the blanket. Finally, at 11:15 p.m. the Soviets had Kudirka under control.

Commander Eustis then went to the boat deck where Kudirka had been taken, observed him bound in the blanket, and expressed to Kudirka his sympathy and personal concern. Although Kudirka said nothing, Eustis thought he had been understood. Eustis has stated that he saw no indication that Kudirka had received physical injury at that time.[32] Eustis decided to use one of his small boats to return all the Soviets and Kudirka to the *Sovietskaya Litva*. He instructed Lieutenant Commander Pakos to contact Captain Brown in order to get his permission to do so.

Pakos reached Brown at 11:30 p.m., informed him of the situation, and requested permission to utilize the *Vigilant*'s boat to return all the Soviets and Kudirka to the Soviet ship. After receiving assurance that the weather and sea were satisfactory, Brown authorized the use of the *Vigilant*'s boat.

Ensign Hughes was in charge of the unarmed boat detail. At 11:40 p.m. two or three Soviets threw Kudirka, still bound in the blanket, a distance of 2 or 3 feet into the boat. He was face down in the bottom of the boat with one Soviet sitting on his head. The *Vigilant*'s boat crew did not know whether Kudirka was conscious at this time. After all hands were in the boat, it was lowered into the water at 11:41 p.m. One Soviet struck Kudirka during the trip between the two ships. When the boat reached the Soviet ship, a net was lowered and the Soviets threw Kudirka into the net which was raised to the deck of the *Sovietskaya Litva*. From that time on it was not possible for the *Vigilant*'s boat crew to observe what, if anything, was happening to Kudirka. After the rest of the Soviets boarded their ship, the small boat crew retrieved the lines that were carried away by the Soviet ship when the *Vigilant* got underway. They also recovered the *Vigilant*'s broken whip antenna. The small boat safely returned to the *Vigilant* at 11:55 p.m. The *Vigilant* escorted the Soviet vessel to international waters. At 1:05 a.m. on 24 November 1970, the *Vigilant* sent a message to the First Coast Guard

District reporting the transfer of Kudirka had been accomplished at 11:55 p.m. Sometime after Kudirka was returned to the Soviet vessel, Commander Eustis indicated to the civilians aboard the *Vigilant* that he felt badly about what had happened and hoped the incident would soon be forgotten. The *Vigilant* returned to New Bedford at 3:30 a.m. on 24 November 1970.[33]

Official and Public Reaction. Television news programs reported the President of the United States was outraged when he learned of Kudirka's return to the Soviets. Secretary of State William P. Rogers was reported to have said, according to a United Press International report, that it was unbelievable to him that the commander of a Coast Guard vessel permitted Soviet crewmen of a fishing boat to board his ship and forcibly take off a Lithuanian defector.[34] Demonstrations to protest the denial of political asylum to Kudirka occurred in New York, Boston, Philadelphia, Cleveland, and Chicago.[35] A subcommittee of the Foreign Affairs Committee of the House of Representatives initiated a congressional investigation of the case and made periodic releases to the news media of news concerning its proceedings.[36] Both the Coast Guard and the State Department also initiated investigations of their own.

After receiving and reviewing the report of the Board of Investigation in the case, the Commandant of the Coast Guard approved the recommendation of the board concerning establishing better liaison with the State Department and initiation of a review of the communications difficulties experienced by the *Vigilant* and the First Coast Guard District to determine what changes, if any, may be necessary. With regard to the personnel aspects of the case, the Commandant reviewed the recommendations of the board and took action as indicated below:

Recommendation 1. That CAPT BROWN be awarded a General Court-Martial for trial on charges of Dereliction of Duty for his failure to inform the Commandant of the progress of the case and for his failure to retain the defector aboard the *Vigilant* until having advice from proper authority. . . .

Recommendation No. 1 is concurred in. In spite of the fact that CAPT BROWN should have exercised independently his authority as Acting District Commander, I am convinced that he was markedly influenced in his course of action by the forceful advice he had received from RADM ELLIS. There is little doubt that regardless of the results of a trial CAPT BROWN's performance during this entire incident has seriously impaired his effectiveness as a senior captain on active duty. For these reasons, if CAPT BROWN immediately submits a request for retirement, I shall accept it and not refer the charge for trial, but rather will issue a Punitive Letter of Reprimand under Article 15 of the Uniform Code of Military Justice.

Recommendation 2. That RADM ELLIS be issued a Punitive Letter of Reprimand from the Commandant for offering instruction or advice without having informed himself of the facts and policy necessary for a proper decision, all to the prejudice of good order and discipline in the service; that he be removed from command and asked to retire as soon as his health permits but not later than 31 January 1971; and that in the interim he be assigned to a position of minimal responsibilities.

Recommendation No. 2 is not concurred in. It is true that RADM ELLIS disobeyed no orders; he was not, in fact, in the chain of command at the time of the incident. Nevertheless, he gave advice having the force of orders and adhered to his position firmly and even stubbornly in spite of the fact that he was informed that principal staff officers were not in agreement with his position and in spite of the fact that he knew that advice had been sought from the Commandant. His actions prompting the recommendation for a Punitive Letter of Reprimand were such as to make him no less responsible in the matter than CAPT BROWN. Accordingly, I direct the Board to embody the misconduct it found to exist in an appropriate charge or charges and specifications. I find such charges should be referred for trial by court-martial. In this instance however, as in the instance of CAPT BROWN, there is little doubt that regardless of the results of a trial, RADM ELLIS' performance during the incident has seriously impaired his effectiveness as a flag officer on active duty. For this reason, if RADM ELLIS immediately submits a request for retirement, I shall accept it and not refer the charge or charges for trial, but rather will issue a Punitive Letter of Reprimand under Article 15 of the Uniform Code of Military Justice.

Recommendation 3. That CDR EUSTIS be issued an Administrative Letter of Reprimand from the Commandant for allowing Soviet crewmembers aboard his vessel to remove a Soviet defector without exercising upon the (sic) proper restraints; and that he be immediately reassigned from the *Vigilant.*

Recommendation 3 is concurred in to the extent that CDR EUSTIS be issued an Administrative Letter of Reprimand (nonpunitive). I do not concur in the stated reason for the issuance of this letter. I recognize that CDR EUSTIS found himself in a difficult and trying situation. He had been told to use whatever force was necessary to return the defector to his vessel. It is apparent that he had become emotionally affected by the unhappy predicament in which the defector had been placed. While I can sympathize with his position, I cannot conceive of any commanding officer interpreting orders authorizing the use of necessary force so as to permit foreign nationals to exercise authority on board a Coast Guard vessel, whether or not proper restraints were imposed. CDR EUSTIS erred in allowing the Soviet vessel's crewmen to exercise any control of the defector while on board the *Vigilant.* His error in judgment reflects an inadequate understanding of the underlying principle of the sovereignty of a United States naval vessel. Although his reprimand is not to be punitive, I concur that he can no longer serve effectively as Commanding Officer of the *Vigilant* and must be transferred to other duty.[37]

The Commandant of the Coast Guard also noted in his action on the investigation of this case:

Although not mentioned in the opinions or recommendations, hindsight indicates that more

aggressive actions on the part of Coast Guard Headquarters might have altered the prosecution of this incident. Specifically, Coast Guard Headquarters might well have insisted on more definite guidance from State Department.[38]

The Secretary of Transportation, John A. Volpe, reviewed this matter and stated:

I do not concur in the award of court-martial in the case of Rear Admiral William B. Ellis, USCG, and Captain Fletcher W. Brown, Jr., USCG. It is my considered view that no purpose would be served by subjecting either RADM Ellis or Captain Brown to a court-martial. There is no doubt that both of these officers now appreciate fully their serious error of judgment in this case. It is also clear that they have been subjected to most extreme castigation from many quarters in this nation. This, indeed, is a severe indictment for which both they and their families have already suffered.

For these reasons, you are directed to withdraw court-martial charges of any sort against RADM Ellis and Captain Brown. However, I do fully concur in the issuance of Punitive Letters of Reprimand to both officers. In taking this action, I have taken note of the fact that both officers are submitting requests for immediate retirement and that these requests will be accepted.

I approve of your action in the case of Commander Ralph W. Eustis, USCG.[39]

Some Precedent, Current Policy, and Law Regarding Asylum. On 5 June 1894 the Commanding Officer of the U.S.S. *Bennington* permitted 17 persons who sought asylum as political refugees to board his ship while lying in the port of La Libertad in El Salvador. When the Commanding Officer was initially requested to grant the refugees asylum, he refused to do so. He later granted them asylum after he was assured that they would be summarily shot if they were caught by the forces of the revolution which had just seized control and proclaimed a provisional government of El Salvador. It was his expectation that the asylum on board the *Bennington* would last only a few days until the refugees could be transferred to a steamer bound for Panama. On the day the steamer arrived in port, however, the consul of the United States at El Salvador and two commissioners from the provisional government boarded the *Bennington*, and the latter requested the surrender of the refugees as common criminals. The Commanding Officer of the *Bennington* refused to surrender the refugees without orders from the Secretary of the Navy. The commissioners then appealed to him not to transfer the refugees to the steamer but to hold them until extradition could be demanded of the United States through proper channels. The Commanding Officer acceded to this request, subject to future instructions of the Secretary of the Navy. The conduct of the Commanding Officer of the *Bennington* on this occasion was characterized as eminently judicious and proper.[40]

President Cleveland is quoted, with reference to the Salvadorean refugees case, as stating:

The Government of Salvador having been over thrown by an abrupt popular outbreak, certain of its military and civil officers, while hotly pursued by infuriated insurgents, sought refuge on board the United States war ship *Bennington*, then lying in a Salva-

dorean port. Although the practice of asylum is not favored by this Government, yet in view of the imminent peril which threatened the fugitives, and solely from considerations of humanity, they were afforded shelter by our naval commander, and when afterwards demanded under our treaty of extradition with Salvador for trial on charges of murder, arson, and robbery, I directed that such of them as had not voluntarily left the ship be conveyed to one of our nearest ports where a hearing could be had before a judicial officer in compliance with the terms of the treaty. On their arrival at San Francisco such a proceeding was promptly instituted before the United States district judge, who held that the acts constituting the alleged offenses were political, and discharged all the accused except one Cienfuegos, who was held for an attempt to murder. Thereupon I was constrained to direct his release, for the reason that an attempt to murder was not one of the crimes charged against him and upon which his surrender to the Salvadorean authorities had been demanded.[41]

One of the results of the Salvadorean refugees case was that the Secretary of the Navy issued a regulation substantially as it appears today in Navy Regulations:[42]

0621. Granting of Asylum.

The right of asylum for political or other refugees has no foundation in international law. In countries, however, where frequent insurrections occur, and constant instability of government exists, usage sanctions the granting of asylum; but even in waters of such countries, officers should refuse all applications for asylum except when required by the interests of humanity in extreme or exceptional cases, such as the pursuit of a refugee by a mob. Officers shall neither directly nor indirectly invite refugees to accept asylum.[43]

On 23 November 1970, the date of the attempted defection by Kudirka, there was no similar Coast Guard regulation in force concerning asylum.

Subsequent to the issuance of the foregoing Navy Regulation before the turn of this century, other obligations to grant asylum have been assumed by the United States. The plaque inside the pedestal of the Statue of Liberty reflects U.S. policy and includes the following:

Give me your tired, your poor,
Your huddled masses yearning
to breathe free,
The wretched refuse of your
teeming shores,
Send these, the homeless,
temptest-tossed to me:
I lift my lamp beside the
golden door![44]

On 11 December 1952 Mrs. Franklin D. Roosevelt, U.S. delegate to the Seventh Regular Session of the General Assembly of the United Nations, stated that the United States ". . . would never force a refugee to return to his country of origin against his will."[45] The U.S. Representative to the United Nations, Ambassador Adlai Stevenson, made the following statement on 20 April 1961 in the Political and Security Committee of the General Assembly of the United Nations:

So long as Americans remain a free people, just so long will they uphold the right of asylum as a fundamental human right. This will not change. Nor, I profoundly

believe, will the pressure to be free stop. I do not deny that since the war the area of tyranny has widened in some parts of the world. In these areas people cannot protest their position publicly or make clear their profound desire for liberty. But it remains a fact that thousands upon thousands have registered their protest in the only way open to them. They have escaped.[46]

Article 14 of the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations at its Third Session, states that every person has a right to seek and to enjoy in other countries asylum from persecution.[47] A statement on U.S. refugee policy was made by Mr. Robert McCloskey, Department of State press spokesman, on 1 December 1970, as follows:

> There has been no change in American policy regarding the admission of refugees into the United States. Since the end of World War II well over one million refugees from countries around the world have, within the scope of our laws, been admitted to the United States for permanent residence. That, in our judgment, is an impressive record. And I just wanted to make it clear that there has been no change in that policy.[48]

In addition to the above indications of an open arms policy for political asylum seekers, the United States is a signatory to the Protocol Relating to the Status of Refugees to which the Senate advised and consented on 4 October 1968, the President approved on 15 October 1968, and which became effective on 1 November 1968.[49] Article 33 of the Convention Relating to the Status of Refugees, which is applicable to the United States through the Protocol Relating to the Status of Refugees, provides in paragraph 1 as follows:

> Prohibition of Expulsion or Return
>
> 1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

Article 1A (2) of the Convention, as modified by article I, paragraph 2 of the Protocol, defines a refugee as a

> person who . . . owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.

Finally, article 1F of the Convention states the provisions of the Convention shall not apply to any person with respect to whom there are serious reasons for considering that he has committed a serious nonpolitical crime outside the country of refuge prior to admission to that country as a refugee. The Soviets have frequently cited the foregoing provision and at the same time have falsely alleged that the refugee had committed some nonpolitical crime as a stratagem to cause the country of refuge to refuse to grant asylum to escapees. Accordingly, any such claim by the Soviets must be examined with care. Such an examination is a proper function of the Department of State as is indicated in the subsequent recommendations.

Resultant Effect of Incident on Certain Persons. It has been ascertained by the author that Rear Admiral Ellis and Captain Brown received letters of reprimand and retired from active service in the Coast Guard on 31 January 1971 as contemplated by the Commandant of the Coast Guard. Commander Eustis received a non-punitive reprimand and has been transferred to new duties ashore. One Congressman is reported to have stated with regard to Eustis, "I don't think, the way the system works, his future in the Coast Guard is very rosy."[50] Kudirka is reported in good health, living in a new apartment in his home city of Klaipeda, Lithuania, and as yet has not been arrested by the Soviets for his attempted defection. The captain of the *Sovietskaya Litva*, Vladimir M. Popov, is reported to have been court-martialed and sent to a Soviet labor camp apparently for failing to prevent the attempted defection by Kudirka. The reported status of Kudirka may be a surprise to many readers. The Soviets have in the past, however, staged news conferences to denounce the West, using defectors who have returned or persons such as Kudirka whose attempt to defect was not successful. Some such persons have been arrested, tried, and punished after they have been used in such propaganda efforts. This may be the reason for Kudirka's reported freedom and new apartment. His fate may be determined after a propaganda effort in which the Soviets now seek his cooperation.[51]

It has also been ascertained that the Department of State has, subsequent to 23 November 1970, issued to the Coast Guard, and all U.S. departments and agencies which have, prior to this incident, not been involved in refugee and defector affairs, procedures for handling requests for political asylum from foreign nationals.[52]

Recommendations. The issue of granting or denying political asylum involves the application of international and domestic laws and domestic policies to specific facts and circumstances in each refugee's case. The decision to grant or deny asylum also involves political considerations and possibly foreign relations with other nations. Such matters are not normally under the cognizance of the Coast Guard, Navy, Army, Air Force, or the Marine Corps but are properly matters administered by the Department of State. The ultimate decision to grant or deny political asylum to a refugee is, therefore, a matter for the Department of State to handle. This is not to say, however, that every decision concerning a refugee seeking asylum must be made by the State Department. The commander of any U.S. ship, camp, or aircraft who is confronted by a refugee who has presented himself on board such ship, camp, or aircraft and who has requested asylum, must make the initial decision to grant or deny temporary asylum to the refugee. It is submitted that the above-mentioned Convention and Protocol are implicit in requiring a reasonable inquiry to be made to determine whether the refugee or

BIOGRAPHIC SUMMARY

Col. Clyde R. Mann, U.S. Marine Corps, did his undergraduate work in business administration at East Carolina University and earned a Juris Doctor from The George Washington University in 1953. Colonel Mann served as an infantry officer early in his career and subsequently has been assigned billets involving legal duties. Some of the more recent of these latter duties are Deputy Head, Discipline, at the Headquarters Marine Corps; Division Judge Advocate of the First Marine Division in Vietnam; and Depot Judge Advocate, Marine Corps Recruit Depot at Parris Island, South Carolina. Colonel Mann is currently assigned as a student at the Naval War College, School of Naval Warfare.

defector is entitled to refugee status under such Convention and Protocol. Accordingly, a commander may grant temporary asylum and retain the person in U.S. custody for a sufficient time to permit his status to be determined and the ultimate decision to be made on the issue of asylum.

It is recommended that a U.S. commander who is confronted by a person who seeks political asylum take action by:

1. Granting such person temporary asylum and retaining him in U.S. custody;

2. Ascertaining as many facts and circumstances concerning the possible basis for the requested asylum and the *bona fide* nature thereof as may be expeditiously obtained;

3. Immediately reporting all known and reported facts and circumstances concerning the matter to superior authority via the most expeditious means;[53] and,

4. Retaining the person in U.S. custody pending the receipt of directives from competent superior authority.

Under no circumstances should the person seeking asylum be arbitrarily or summarily expelled from a U.S. ship, camp, or aircraft pending determination of his status. To the extent circumstances permit, persons seeking asylum should be afforded reasonable care and protection.

It is further recommended that Article 0621, U.S. Navy Regulations, 1948, be revised to reflect current policy and procedures for granting asylum within the Navy and the Marine Corps.

—■—

The sphere of the Navy is international solely. It is this which allies it so closely to that of the statesman. Aim to be yourselves statesmen as well as seamen. The biography and history of our profession will give you glorious names who have been both. I trust the future may show many such among the sons of this College.

Alfred T. Mahan:
To Naval War College Class of 1909

FOOTNOTES

1. Tryon Edwards, et al., *The New Dictionary of Thoughts* (New York: Standard Book, 1955), p. 331.

2. Memorandum from the Secretary of Transportation for the President of the United States, "Attempted Defection by a Crew Member of the *Sovetskaya* [Sic] *Litva*," Washington: 2 December 1970.

3. Letter Report of Investigation from Vice Adm. Thomas R. Sargent III, U.S. Coast Guard, to Commandant, U.S. Coast Guard, "Formal Board of Investigation into Allegations of Improper Conduct in Connection with Recent Defection Attempt of Soviet Crewman to CGC *Vigilant* near Martha's Vineyard, Massachusetts, on 23 November 1970," file 5830, Washington: 17 December 1970.

4. Memorandum Report of Investigation from the Under Secretary of State for Political Affairs for the President of the United States, "Attempted Defection by a Crew Member of the *Sovetskaya* [Sic] *Litva*," Washington: 6 December 1970.

5. U.S. Congress, House, Subcommittee on State Department Organization and Foreign Operations of the Committee on Foreign Affairs, *Attempted Defection by Lithuanian Seaman Simas Kudirka*, Hearings (Washington: U.S. Govt. Print. Off., 1971); U.S. Congress, House, Subcommittee on State Department Organization and Foreign Operations of the Committee on Foreign Affairs, *Attempted Defection by Lithuanian Seaman Simas Kudirka*, Report (Washington: U.S. Govt. Print. Off., 1971).

6. Interview with Lt. (jg.) Douglas A. Lundberg, Operations Officer, and Ens. John F. Hughes, Gunnery Officer, U.S. Coast Guard cutter *Vigilant*, New Bedford, Mass.: 11 February 1971.

7. Letter Report of Investigation from Vice Adm. Thomas R. Sargent, p. 21.

8. *Ibid.*

9. *Ibid.*, p. 23.

10. Memorandum Report of Investigation from the Under Secretary of State for Political Affairs, p. 3.

11. Letter Report of Investigation from Vice Adm. Thomas R. Sargent, p. 35.

12. *Ibid.*, p. 25.

13. *Ibid.*

14. *Ibid.*, p. 26.

15. *Ibid.*, p. 28.

16. Memorandum from the Secretary of Transportation, Annex C.

17. Letter Report of Investigation from Vice Adm. Thomas R. Sargent, p. 36.

18. *Ibid.*, p. 40.

19. Memorandum from the Secretary of Transportation, Annex G, transcription of 231715R conversation between Rear Admiral Ellis and Commander Eustis.

20. *Ibid.*

21. The message released by the *Vigilant* at 2:23 p.m. requested similar small boat assistance, but, as noted above, it was not received by the First Coast Guard District until 6:38 p.m. due to communication difficulties or failures.

22. Letter Report of Investigation from Vice Adm. Thomas R. Sargent, p. 46.

23. *Ibid.*, p. 47.

24. *Ibid.*, p. 49.

25. *Ibid.*, p. 51.

26. *Ibid.*, p. 52.

27. *Ibid.*, p. 55.

28. *Ibid.*, p. 56; Memoraudum Report of Investigation from the Under Secretary of State for Political Affairs, p. 51 and enclosure 3.

29. Letter Report of Investigation from Vice Adm. Thomas R. Sargent, p. 60.

30. *Ibid.*

31. Interview with Ens. John F. Hughes.

32. Interview with several officers and crewmen of the *Vigilant* on 11 February 1971 failed to disclose a single witness who stated he had seen any evidence of blood or residual injury to Kudirka. Mr. Briese stated, however, during his appearance before the congressional subcommittee investigating this matter, that he had seen blood on Kudirka's face.

33. Letter Report of Investigation from Vice Adm. Thomas R. Sargent, p. 69.

34. "Rogers Calls *Vigilant* Case Unbelievable," *The Providence Journal*, 24 December 1970, p. 21:2.

35. "U.S. Admits Seaman Forced Back," *The Providence Sunday Journal*, 29 November 1970, p. N-29:1.

36. "Too Tough, Says Solon," *Newport* (R.I.) *Daily News*, 5 February 1971, p. 11:1.

37. Action of the Convening Authority on the Formal Board of Investigation into Allegations of Improper Conduct in Connection with Recent Defection Attempt of Soviet Crewman to *Vigilant* near Martha's Vineyard, Massachusetts, on 23 November 1970, file 5830, Washington: 18 December 1970, p. 3-4.

38. *Ibid.*, p. 5.

39. Letter from the Secretary of Transportation to Commandant, U.S. Coast Guard, "Direction on Your Action on the Formal Board of Investigation, Coast Guard Cutter *Vigilant* Case," Washington: 21 December 1970.

40. John B. Moore, "The Case of the Salvadorean Refugees." *The American Law Review*, January-February 1895, p. 1-20.

41. John B. Moore, *A Digest of International Law* (Washington: U.S. Govt. Print. Off., 1906), v. II, p. 852-853.

42. U.S. Department of State, *Digest of International Law* (Washington: U.S. Govt. Print. Off., 1967), v. 6, p. 501.

43. U.S. Department of the Navy, *U.S. Navy Regulations*, 1948 (Washington: U.S. Govt. Print. Off., 1948), p. 74.

44. "Liberty, Statue of." *Encyclopaedia Britannica*, 1970, v. 13, p. 1030.

45. United Nations, General Assembly, Official Record, Seventh Session, Third Committee, A/C. 3/SR 472 1952 (New York: 1952), p. 331.

46. U.S. Department of State, v. 8, p. 671.
47. *Ibid.*, p. 680.
48. Memorandum from the Under Secretary of State for Political Affairs for the President, enclosure 13.
49. U.S. Department of State, *United States Treaties and Other International Agreements, 1968* (Washington: U.S. Govt. Print. Off., 1969), v. 19, p. 6223-6288.
50. Wayne L. Hayes, quoted in "Too Tough, Says Solon," p. 11:1.
51. "Skipper Court-Martialed—Rejected Defector Reported Alive, Well," *The Providence Journal,* 12 February 1971, p. 1:4; Columbia Broadcasting System Networks Television News, at 1830 on 11 February 1971.
52. Subcommittee on State Department Organization and Foreign Operations of the Committee on Foreign Affairs, Hearings, p. 245.
53. If the confrontation and request for political asylum occur in the territory or territorial waters of another country, the U.S. Department of State representative in such country should be notified in like manner.

APPENDIX I

CHRONOLOGY OF EVENTS

Monday, 23 November 1970

8:00 a.m.	U.S. delegation boards *Vigilant*
8:49 a.m.	*Vigilant* underway
10:30 a.m.	*Vigilant* moored to Soviet ship
11:00 a.m.	First overture of defection noted
12:43 p.m.	*Vigilant* sends message to First Coast Guard District
12:49 p.m.	Message received
1:18 p.m.	Captain Brown calls Rear Admiral Hammond
1:20 p.m.	Captain Brown calls Rear Admiral Ellis
1:26 p.m.	*Vigilant* message doubleheaded to Coast Guard Headquarters
1:28 p.m.	*Vigilant* message received at headquarters
1:30 p.m.	First Coast Guard District sends message to *Vigilant*
1:38 p.m.	*Vigilant* 12:43 message sent to State Department
2:00 p.m.	Kudirka passes cigarettes and note to Lieutenant Lundberg
2:23 p.m.	*Vigilant* sends message to First Coast Guard District
2:30 p.m.	Conference in Captain Brown's office
2:45 p.m.	Captain Dahlgren contacts Mr. Killham, State Department
3:15 p.m.	Mr. Killham calls Captain Dahlgren
3:36 p.m.	*Vigilant* receives First Coast Guard District instructions
3:30 p.m.	Captain Brown calls Rear Admiral Ellis
3:45 p.m.	Captain Dahlgren calls Captain Brown
4:12 p.m.	Captain Brown calls Rear Admiral Hammoud
4:20 p.m.	Kudirka jumps aboard *Vigilant*
4:30 p.m.	Captain Dahlgren calls Mr. Killham
4:30 p.m.	Captain Brown left office for home
5:15 p.m.	Commander Eustis calls Rear Admiral Ellis
5:40 p.m.	*Vigilant* calls Woods Hole
5:44 p.m.	Woods Hole calls RCC
5:47 p.m.	Lieutenant Ryan tries to call Captain Brown
6:00 p.m.	Captain Brown calls Lieutenant Ryan
6:15 p.m.	Commander Eustis calls Captain Brown
6:38 p.m.	First Coast Guard District receives *Vigilant*'s 2:23 message
6:38 p.m.	Captain Brown calls Rear Admiral Ellis
6:45 p.m.	Captain Brown calls Lieutenant Commander Pakos
6:48 p.m.	Captain Brown calls Rear Admiral Ellis
6:54 p.m.	Commander Eustis calls Captain Brown
7:30 p.m.	Captain Brown calls Rear Admiral Ellis
8:00 p.m.	Formal request for return of Kudirka
8:04 p.m.	Mr. Gordon tries to call his friend in State Department

8:19 p.m.	Commander Eustis calls Captain Brown
8:24 p.m.	Lieutenant Ryan calls Lieutenant (junior grade) Tritbough
8:30 p.m.	Lieutenant (junior grade) Tritbough calls Rear Admiral Hammond and other Coast Guard officers in Washington
8:45 p.m.	Lieutenant (junior grade) Tritbough calls Mr. McGuire, State Department
9:45 p.m.	Call placed to Soviet Embassy from *Vigilant*
10:14 p.m.	Commander Eustis calls Captain Brown
10:30 p.m.	Soviet crewmen board *Vigilant*
11:00 p.m.	*Vigilant* unmoors from Soviet ship
11:15 p.m.	Kudirka subdued by Soviet crewmen
11:30 p.m.	Mr. Mainland talks with Lieutenant (junior grade) Tritbough
11:30 p.m.	Lieutenant Commander Pakos calls Captain Brown
11:40 p.m.	Kudirka loaded in small boat
11:50 p.m.	Kudirka returned to Soviet ship
11:55 p.m.	Small boat returns to *Vigilant*
12:00 p.m.	*Vigilant* escorts Soviet vessel into international waters

Tuesday, 24 November 1970

3:30 a.m.	*Vigilant* moors at New Bedford

The problem is to grasp, in innumerable special cases, the actual situation which is covered by the mist of uncertainty, to appraise the facts correctly and to guess the unknown elements, to reach a decision quickly and then to carry it out forcefully and relentlessly.

Helmuth von Moltke ("The Elder"), 1800-1891

This article briefly traces the legal precedents behind today's internationally accepted concept of asylum and should be of interest to every officer who has held, holds, or someday may have a command at sea. The clear, forthright analysis and recommendations cut through the legal verbiage which the layman so often finds disconcerting and provides a source of information which should be of considerable practical value to the line officer.

LEGAL ASPECTS OF THE REFUSAL OF ASYLUM BY U.S. COAST GUARD ON 23 NOVEMBER 1970

An article based on lectures
delivered at the Naval War College
on 11 December 1970 and 11 February 1971
by

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The confusion surrounding Simas Kudirka's attempt to obtain asylum aboard the U.S. Coast Guard cutter *Vigilant* on 23 November 1970 has led to outrage, accusations, recriminations, excuses, and lame exculpations of some of the parties involved and the disgrace of others. It has not led to any constructive change in the public promulgations of the relevant law and procedures. Much of what has passed provides a sad reminder of Dr. Johnson's famous remark, "Depend upon it, Sir. When a man knows he is about to be hanged in a fortnight, it concentrates his mind wonderfully." It is a pity that more concentration or clarity of mind was not shown by the participants in the tragic little drama. Clearly, most of them were without thought of what might happen to them in 2 weeks. Clarity of mind should have been aided by the fact that both *Vigilant* and the Russian mother ship, the *Sovetskaya Litva*, from which Kudirka, a Lithuanian national, sought to separate himself permanently were both well within U.S. territorial waters (about 1 mile off Gay's Head, Martha's Vineyard[1]) during the whole of the pathetic drama.

First of all it is necessary to separate the issue of asylum, *per se*, from that of the territorial integrity of the United States and of a U.S. warship and of the American flag. Hence we should go over

some old cases bearing on the former point before dealing with the problem of asylum.

Territorial Integrity of the Receiving State. The first is the famous *Savarkar* case.[2] This was decided by the Permanent Court of International Arbitration in 1911. Savarkar was an Indian revolutionary (in a letter to the Marseilles police authorities, the French Surete, transmitting a Scotland Yard request for cooperation, called him "un revolutionnaire hindou"). He was being shipped back from England to India aboard the P. & O. liner *Morea* to face charges of abetment of murder. On reaching Marseilles, he escaped while the *Morea* was in port. He swam to the wharf and was running down it when he was arrested by a brigadier (the equivalent rank of sergeant) of the French port police. The French brigadier handed Savarkar back to the Indian Army Military Police guard who had been escorting Savarkar back to India and who had given chase. Thanks to the intervention of the French police officer, Savarkar was taken back aboard ship. On learning the facts, the French Government protested to the British. The latter considered that their conduct was within the police arrangement of collaboration and the brigadier's delivery, being voluntary, closed the case. The French Government was not satisfied with this response. It argued that the brigadier of the port gendarmerie was mistaken as to his duties and protested that Savarkar could only be recovered by the British if they took appropriate legal proceedings for his rendition. This dispute came before the Permanent Court of International Arbitration in 1910, and it gave its decision in 1911. The Court held, firstly, that since there was a pattern of collaboration between the two countries regarding the possibility of Savarkar's escape in Marseilles and since there was neither force nor fraud in inducing the French authorities to return Savarkar to them, the British authorities did not have to hand him back to the French in order for the latter to hold rendition proceedings. On the other hand, the tribunal also observed that there had been an "irregularity" in Savarkar's arrest and delivery over to the Indian Army Military Police guard.

My second case involves Berthold Jacobs, a German refugee journalist in Switzerland. In 1936 he was kidnapped by the Nazi authorities. They apparently disliked the kind of writing he was doing in the country of his adoption. The Swiss Government protested very strongly to the Nazi German Government who, first of all, denied that they were answerable to Switzerland because Berthold Jacobs was a German national. But on Swiss insistence they returned him to Switzerland.[3]

Article 2, paragraph 4 of the United Nations Charter now reinforces the territorial integrity and political independence of states as does the post-World War II decision of the International Court of Justice in the *Corfu Channel* case.[4] Albanian waters had been mined; a British destroyer and a British cruiser had suffered damage. Crewmembers had been killed and injured. The Royal Navy then swept the channel free of mines, and the British Government claimed reparation for the killed and injured seamen and for the damaged ships. The Court held that Albania had been wrong in mining the channel and in failing to give the necessary warnings. Accordingly, she owed an indemnity to the British Government for the damage to the ships and for the injuries and deaths of the seamen. On the other hand, the Court found that the British Government had been wrong in sweeping the channel. The Corfu Channel was in Albanian territorial waters, hence sweeping it amounted to a denial of Albania's territorial integrity under article 2,

paragraph 4 of the charter. While this case is not about defectors or asylum, it does underscore the importance of the territorial integrity of states in international law and points up the prohibition against the exercise of coercive power by one country within the territory of another. The *Corfu Channel* case emphasizes this point because in it the exercise of power was for general international community values, namely clearing an international waterway of mines and making it safe for all shipping, irrespective of nationality.

Klimowicz was an East European doctor who was in London and wished to find asylum in England. This was in July 1954. The Russian authorities were determined to make his defection as hard as possible, so they had him spirited aboard a Polish freighter which was then departing for the Soviet Union. The British port police stopped the freighter while she was in the Pool of London, went aboard with a writ of habeas corpus, and took Klimowicz off. The Russian exercise of force against Klimowicz was viewed as an unlawful act of coercion by the Soviets within British territory and was resisted on that ground. On the other hand, the Russian representatives were entitled to participate in the habeas corpus proceedings which followed. Finally, Klimowicz was granted asylum in England.[5]

Now we come to a startling series of events which may be collectively called the *Erich Teayn* case after the main actor, a very enterprising and determined Estonian seeker of asylum in Great Britain.[6] This was in June 1958. While aboard the Russian mother ship *Ukraina* engaged in fishing in the North Sea off Northern Scotland, Erich Teayn managed to gain the shore of Mainland, the principal island of the Shetland Islands, a group of very sparsely inhabited Scottish islands to the northeast of Great Britain. He was chased by no less than 30 Russian crewmembers who were so determined to get him back that their chase did not stop at the 3-mile limit or even the water's edge. They came ashore after their quarry. He took refuge with a crofter who apparently called the police. The local constabulary then intervened and took Erich Teayn to the police station at Lerwick and forbade the representatives of the Russians from seeing him. He was temporarily held under the Aliens Order and finally was given asylum in England. It is interesting to note that the only debate about this bizarre event in the House of Commons was a question to the Foreign Secretary whether the British Government would protest to the Russian Government for the "invasion" of the territorial integrity of the Shetlands by 30 Russians. The British note pointed out that had Mr. Teayn been apprehended by force "a flagrant violation" of international law would have occurred.[7]

There are, of course, many other areas of asylum. For example, there was the case of the Russian schoolteacher in New York. She jumped out of a high-rise hotel building about 16 years ago and was badly injured while seeking to escape from the Russian police who were trying to exercise Soviet sovereignty on American soil by forcibly taking her back to Russia. When she had been taken to the hospital and told her story, she was granted asylum.

If we clear our minds, hopefully without the imminence of a hanging, we can see that in the cases I have just outlined the authorities of one country have sought to exercise power on the soil of another. Thus, in considering the recent debacle, one should remember that since they had no extraterritorial rights here, the Russians were denigrating the territorial sovereignty and integrity of the United States. Without the consent of *Vigilant*'s Commanding Officer to their action, the Russians who arrested Simas Kudirka could be characterized as common criminals, kidnappers for example. Even with his

consent, any excessive use of force that might have been brought to bear could not be made lawful merely by virtue of the commanding officer's invitation or nonintervention. It merely was an illegality aided and abetted by an officer of the U.S. Coast Guard. Let me repeat, Russian policemen have no extraterritorial status or privileges here in the United States except insofar as they may be granted them by the appropriate U.S. authorities. And this consent cannot condone what the Constitution and laws of the United States themselves prohibit. Be that as it may, without a valid grant, the exercise of police power by one country on the soil of another is a threat or use of force against the territorial integrity of the host state. The freedom from the threat or use of force which this assures to states is guaranteed not only in traditional international law, but by article 2, paragraph 4, of the Charter of the United Nations. For, let me stress, the primary issue in all the instances I have cited is the territorial integrity of the receiving state and the abuse of that territorial integrity by the authorities of the state claiming to exercise power over the individual. That was exactly the situation in the *Kudirka* case, for, let us remember, the events in that case occurred upon a U.S. Coast Guard ship which was itself within the territorial waters of the United States.

Asylum. Paragraph F of article 1 of the United Nations Convention Relating to the Status of Refugees* (signed at Geneva on 28 July 1951[8]—the United States became a party to the Protocol consisting of Articles 2-34 on December 1968[9])—by this clause the Convention does not apply to persons regarding whom there are strong reasons to believe had committed a nonpolitical crime—a war crime or a crime against humanity as defined in international instruments. Note that the provisions of this Convention apply to the receiving state's "serious reasons for considering" that such crimes have been committed by the defector. I wish to draw your attention to the phrase "serious reasons for considering." Unsubstantiated allegations by the officials of the claiming state that the defector has committed a serious crime of a nonpolitical nature are not, in international usage, accepted as valid reasons under this clause and other clauses like it for obligating the receiving state to refuse asylum and return the would-be asylee. There has to be something further. For example, it is standard practice of the Soviet Union to allege some kind of crime against most people who are seeking asylum abroad; it is a sort of standard appeal to the receiving state. For example, when a fairly senior NKVD official called Petrov defected to Australia back in 1956, the allegation was made that he had stolen funds from a football club. (I suspect that the Russians congratulated themselves with the thought that their allegation involving the funds of a sporting club was a very clever maneuver and should have a special appeal to the Australian mind!) No one believed it because the Soviet authorities produced no substantiation that would stand up in a democratic country's court of law as "serious reasons for considering" that the applicant has committed the type of offense listed in paragraph F. Thus, when the master of a ship says, "This

*F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(a) he has committed a crime against peace, a war crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) he has committed a serious nonpolitical crime outside the country of refuge prior to his admission to that country as a refugee;

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

man is a thief who stole three thousand rubles (about $3 thousand at inflated official rate) from my safe," his unsubstantiated or uncorroborated allegation does not, in the general acceptation of the clause, stand up as a "serious reason for considering" that the defector has committed one of the classes of crimes listed under the above article.

Standardly an individual seeking asylum should first be given temporary asylum. That gives the receiving state's official the opportunity of examining him. Furthermore, if the country from whence he fled has a desire to have him returned, it should be heard on that point, and a decision can then be made either granting the defector the asylum he seeks or rendering him back. This is the claim the French made in the *Savarkar* case, and this has been international practice long before the United Nations Convention on the Status of Refugees was written.

Article 33 of the Convention* provides at least the starting point of an international law obligation binding on a receiving state. It requires that whatever else the receiving state does with him, if it is satisfied as to the status of the refugee, it will not expel or return him to any territories "where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." One may argue, perhaps, that the individual here may have a positive claim in international law itself not to be returned—especially if the purpose is to try him for high treason—the standard Soviet punishment for defection whether accomplished or merely attempted. This appraisal of the article's meaning was, probably, the underlying assumption of the position taken by Prince Sadruddin Aga Khan, the United Nations High Commissioner of Refugees when he sent his telegram to the U.S. Secretary of State.[10] But it is not, perhaps, necessary to find that article 33 creates an international law right enuring in individuals, while agreeing that, in a very real way, it obligates the state to respect the claim of a *bona fide* refugee.

Nothing regarding the claims of the refugee can cut across the right of a state fully to examine an individual to determine whether in its opinion this individual is likely to abuse its hospitality. Anything less would be a wonderful way of putting a spy into the receiving state's midst. Also a way, perhaps, for criminals to start with a clean sheet. The purpose of holding the individual on the basis of a temporary asylum only, and of examining him, is not only to determine whether there is an obligation to return him but also whether it is in the best interests of the receiving state to grant him the privileges of asylum.

A Legal Fiction. Unfortunately I cannot leave the *Kudirka* case here. There is a further point I am, in all conscience, bound to discuss. The officer of the Department of State who was contacted by the Coast Guard advised on two points for consideration and possible action. First, he said "do not encourage the potential defector." This would not seem to be practical advice in the case where the alien had already made up his mind. The other

*Article 33, "Prohibition of Expulsion or Return ('Refoulement')"

1. No contracting state shall expel or return ("Refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

was to confirm, that if Kudirka were to follow up his announced intention and jump from the Soviet ship into the sea, he could be rescued as a "mariner in distress."[11] Is the imputation of this that he is not to be granted asylum, only hospitalization? What if the Russians sent a boat to "play chicken" or if their authorities demanded his immediate return after we had rescued him? Should his standing as a distressed mariner place the Coast Guard in a more privileged position regarding the rescue over and above the ship on which the man served? Should the Russians play Alphonse and say, "Après vous"? Even if the Russians did stand back and allow the Coast Guard to conduct the rescue, would the United States, merely on the basis of Kudirka's status as a "distressed mariner," be capable of withstanding the Russian demand for his return after the rescue? How can Kudirka's standing as a distressed mariner be an improvement on that of being a political refugee? Surely the Soviet authorities would have a better case for his return if he were a half-drowned but loyal Russian. They could claim that their mother ship, being so much larger than the Coast Guard cutter, had far better medical equipment and facilities, and, moreover, it carried sick bay attendants who could converse easily with the victim. This illustrates a sad point. Lawyers have, down the ages, been accused of manufacturing legal fictions in order to befuddle laymen and thus the more easily to earn large fees. Now, just as the legal profession is turning its collective back on those spurious and sometimes self-defeating forms of argument, it would appear that laymen are going into the business of manufacturing those decoys of the mind in order to deceive themselves.

An Issue of Legality. Although the United States has been, since 1968, a party to the 1951 United Nations Convention on the Status of Refugees, the current *Naval Regulation* (Regulation 0621) still opens with a preamble more redolent of the days of Professors Moore and Hyde than of the present. It states:

> The right of asylum for political or other refugees has no foundation in international law. In countries, however, where frequent insurrections occur, and constant instability of government exists, usage sanctions the granting of asylum; but even in waters of such countries, officers should refuse all applications for asylum except when required by the interests of humanity in extreme or exceptional cases, such as the pursuit of a refugee by a mob. Officers shall neither directly nor indirectly invite refugees to accept asylum.

This directive reflects a harmony with this country's time-honored sentiment of remaining neutral in the civil commotions of the South and Central American republics. The stated exception, in terms of "humanity," should be viewed, in the context of the regulation as a whole, with a degree of skepticism and, indeed, disenchantment. Its operation turns on an undefined criterion to be applied or disregarded by the naval officer at his discretion—and risk. Be that as it may, today Naval Regulation 0621 is no longer congruent with the laws of the United States as they are now in force. For, while the Naval Regulations may be the naval officer's bible, they are subordinate regulations which are void if contrary to the "supreme law of the land," namely the Constitution, treaties, and statutes of the United States. Clearly, since Naval Regulation 0621 is contrary to the United Nations Treaty on Refugees to which the United States has been a party since December 1968, it is now invalid as it stands.

I would like to suggest that a new subordinate legislative act, a regulation, be promulgated. This should be public, plain on the face of it as to its purpose and meaning and consonant with the laws and treaties now in force in this country. The drafters of such a law might profitably study and adopt possible procedures whereby an official within the United States, its territories and territorial seas and on the high seas, be he a policeman or a naval officer, can routinely grant *ex parte* temporary and provisional asylum, to be followed up by a hearing before executive officials in whom would be vested the power of determining finally whether the defector or refugee may remain permanently under the protection of the United States or not. On the other hand, the case of an American officer in a U.S. installation abroad or aboard a U.S. warship in a foreign port or in the roadsteads, or internal or territorial waters of a foreign country, would not necessarily appear to fall within the Convention; so he should not be brought within the procedures just outlined. In such cases, perhaps, the older principles and rules might be sufficient. After all, they were sufficient to warrant the extension of American asylum to Svetlana Aleyevna at a point of time when she was either in India or Switzerland or in transit between the two.

Conclusion. The blueprint suggested in the preceding paragraphs would give each his due. The defector would be provided with the procedural opportunities of satisfying a tribunal of the executive branch as to his good faith, his credentials and his claim to asylum, if he did indeed have these factors in his favor. The security services of the United States could have the opportunity of attacking his claim on the ground of his previous criminal record (if such were to exist) or of his past hostility to the United States and to the political and moral principles for which it stands, or of the strong possibility that the defector may be a plant by a foreign secret service to embarrass the United States or to give misleading information or to engage in espionage or sabotage activities under the cover of his status as an asylee. The commanding officer of a unit to which a defector appeals is protected and so, through him, is the important principle of the integrity of command.[12] Finally, the interests of the United States are protected in two ways. First, the means of protecting its security interests have already been indicated. Second, if a foreign country knows that the grant of asylum by an officer in the first instance is merely provisional, any attempt by its

BIOGRAPHIC SUMMARY

Professor Louis F.E. Goldie is a recognized authority on the law of the sea, space law, and international organizations. The author of many articles, Professor Goldie holds an LL.B. degree from both the University of Western Australia and the University of Sydney and an LL.M. degree from the University of Sydney. He has also completed additional studies at Harvard University and at the Hague Academy of International Law, and from the latter he holds the diplomas of both the Academy and the Center of Research and Studies. He came to the United States in 1959 as a lecturer in political science at UCLA from the Australian National University where he was a senior lecturer. He also taught the Law and Usages of War at the Royal Military College, Duntroon. He has taught in the political science departments and law schools of a number of universities in the United States and is currently the Director of the International Legal Studies Program at the College of Law of Syracuse University. For the present academic year (1970-71) Professor Goldie is occupying the Charles H. Stockton Chair of International Law at the Naval War College.

representatives to recover the person of the asylee or put pressure on the officer granting temporary protection for the defector's return would be an unwarranted and insulting intervention in the domestic operation of the receiving country's domestic procedures and could be justifiably resisted on that ground. On the other hand, the foreign country's claim to have the asylee returned could be heard by the executive tribunal and taken into account when the final decision is rendered. In conclusion, I am compelled to point out that to give the foreign country standing to be heard and the assurance of full respect and consideration of its claim would amount, in the light of article 33 of the Convention as well as paragraph F of article 2, to be more than the Convention itself requires.

FOOTNOTES

1. The facts of this case were reported in Terence Smith, "Nixon Is Irked by Return of Defector to Soviet Ship," *The New York Times,* 1 December 1970, p. 1:2; James M. Naughton, "Nixon to Issue 'New, Clear Policy' on Accepting Political Refugees," *The New York Times,* 3 December 1970, p. 2:3; Terence Smith, "Coast Guard Officers Relieved of Duties in Defector Incident," *The New York Times,* 5 December 1970, p. 1:2, 6:3; "Defector: Why Nixon Was So Angry over Refusal of Asylum," *The New York Times,* 6 December 1970, sec. 4, p. 3:1.

2. The Hague, Permanent Court of Arbitration, *Hague Court Reports,* 1911, v. I, p. 275.

3. Discussed in Joseph G. Starke, *An Introduction to International Law,* 4th ed. (London: Butterworths, 1958), p. 84.

4. The Hague, International Court of Justice, *Reports of Judgments, Advisory Opinions and Orders* (Leyden: Sijthoff, 1949), p. 4.

5. "Klimowicz Gets Asylum," *The New York Times,* 7 August 1954, p. 5:2.

6. This was reported in "Soviet Crew Lands in Shetland to Hunt Deserter from Trawler," *The New York Times,* 27 June 1958, p. 1:4. "Two Soviet Aides Fly to Defection Scene," *The New York Times,* 28 June 1958, p. 3:4; "Britain Warns Soviet on Shetland Landing," *The New York Times,* 29 June 1958, p. 4:4; see also "Russians Hunt Seaman in Shetland," *The Times* (London), 27 June 1958, p. 10:1; "Estonian Refugee on Way to Leith," *The Times* (London), 28 June 1958, p. 6:12.

7. "Britain Warns Soviet on Shetland Landing," p. 4:4.

8. United Nations, Secretariat, "Convention Relating to the Status of Refugees Signed at Geneva on 28 July 1951," *Treaty Series* (New York: 1954), v. CIXC, p. 150.

9. U.S. Treaties, etc., *United States Treaties and Other International Agreements* TIAS 6577 (Washington: U.S. Govt. Print. Off., 1968), v. 5, p. 6225.

10. "U.N. High Commissioner of Refugees Prince Sadruddin Aga Khan Expresses Dismay over Incident, Wire to Rogers; Discusses Incident with U.S., U.N., Amb. Yost," *The New York Times,* 1 December 1970, p. 1:2.

11. Here we have indulgence in logomachy ("word play") which, in the context, amounts to a resort to a legal fiction. What we term a legal fiction is the pretense or contrivance of an untrue characterization of the facts (namely here that the defector is a "mariner in distress") so that a possibly desirable legal prescription could be induced as governing the situation (i.e., that the Coast Guard may "rescue" the distressed mariner-defector). Logically this logomachy which was introjected into Kudirka's proposal has a similar configuration to the postmedieval common law courts' characterization of John Doe and Richard Roe as sureties for a defendant's appearance in civil suits begun by a Bill of Middlesex, see Sir William S. Holdsworth, *History of English Law,* 3d ed. (London: Sweet and Maxwell, 1922), v. I, p. 220-221, or Court of King's Bench characterization of "William Stiles" as the "casual ejector" in the action of ejectment (*ejectione firmae*) over the centuries during which that form of action was greatly in demand, see Frederick Maitland, *The Forms of Action at Common Law* (Cambridge, Eng.: The University Press, 1936), p. 58-59. In all these situations the Court which approved the fiction was in control of the litigation. Accordingly, the pretended facts, not the true ones, drew the desired legal conclusion; for one essential factor in successful legal fictions (which was missing in the Simas Kudirka incident) was the prohibition of the defendant's traversing the facts upon which the fiction depended. Clearly the master of the Soviet mother ship would not be placed under binding inhibitions similar to those which a domestic court can impose on litigants before it. The humanitarian duty to rescue would not impel him to bow to the Coast Guard's assumption of

control after his subordinate had jumped into the sea nor would his duty to maintain discipline aboard his ship and among his personnel.

12. For an eloquent assertion of the integrity of command, see Henry E. Eccles, *Military Concepts and Philosophy* (New Brunswick, N.J.: Rutgers University Press, 1965), p. 68-70, 117, 118-164, 165, 257-267, 269-289.

Ψ

My dream is . . . that America will come into the full light of the day when all shall know that she puts human rights above all other rights and that her flag is the flag not only of America but of humanity.

Woodrow Wilson: Address in Philadelphia, Pa., July 4, 1914; Public Papers, III, p. 147

CHINESE NATIONAL CULTURE

One's comprehension of the Chinese People's Republic can be strengthened by an understanding of four fundamental perceptions—Chinese perception of superiority, concepts of authority and obedience, the nature and power of people, and concepts of time. Of these the Westerner, especially Americans, will find the Chinese concept of time the most alien. In the words of Mao Tse-tung, "In one hundred years, it will be even more difficult to ignore China. No, we are not in any hurry. Time is our good ally."

A lecture delivered at the Naval War College

by

Professor Clyde B. Sargent

Introduction. In this lecture I shall focus on four selected Chinese attitudes that I feel are significant influences on Chinese behavior and that affect China's foreign policy and international relations. Politically, these attitudes are essentially neutral. Their validity and reality are not determined by the nature of China's political system. Being essentially apolitical and relevant to all circumstances, they qualify as aspects of "Chinese National Culture." National culture includes values deeply ingrained in the Chinese character and significantly influential without reference to time or place or political system. I do not judge them; I do endeavor to understand their significance. The four fundamental perceptions and values that I deal with in this discussion relate significantly to interpretation of goals, programs, and actions of the Chinese People's Republic. They are:

- Chinese perception of superiority
- Concepts of authority and obedience
- The nature and power of people
- Concepts of time

The Chinese People's Republic—like its predecessors for 2,000 years has undertaken to organize the Chinese people as a society able to attain China's primary desires for unity, security, prosperity, and dignity. The system to which China's present endeavor is affiliated is increasingly becoming a Communist-oriented Chinese system conceptualized by Mao Tse-tung and his associates of many years.

The concepts of this Chinese system and their application reflect many forces and influences—some out of China's intellectual, political, and social past; some out of Mao's and his associates' long experience in understanding and organizing the Chinese

people; and some borrowed from alien social concepts. A wedding of historic and current values aud concepts is normal. The Chinese People's Republic, in a sense, may be characterized by our description of a bride's costume—something old, something new, something borrowed, aud a Chinese hue. The offspring of this wedding is the Chinese People's Republic today—and whatever it may be tomorrow.

Inevitably present are attitudes, perceptions, and values that are *Chinese*—that have been conceived, accepted, and reinforced through many centuries and that are not uniquely related to any sociopolitical system, but that may be incorporated into various systems. Some of these perceptions and values have dominated every political system of China—empire, the Republic of China, and now the Chinese People's Republic. These historically created elements are the Chinese cultural warp interwoven with the currently dominant Communist political woof. These perceptions and values constitute aspects of Chinese national culture. Identification and assessment of these characteristically Chinese elements can facilitate our understanding of any Chinese political system—including that of the Chinese People's Republic.

My aim is to seek for ourselves insights of Chinese perceptions that will contribute sophistication to our consideration of China.

Chinese Perception of Superiority. The Chinese concept of superiority is an often noted characteristic. To acquire some feeling for it and its significance, we might ask—and try to answer—four questions:

- Is it real—historically and currently?
- What is its scope?
- How did it develop?
- What is the significance today?

Strange as it may seem to all other peoples of the world who regard themselves as superior (and most peoples do), the Chinese concept of Chinese superiority is very real. Conceived in the first millennium B.C., the concept has been constant for 2,500 years. It is real today. And, note, this is a *Chinese* concept—not nationalist, not Communist. It may be shaken by terminal political malaise, decline, and demise or by military misfortunes of governments, but it is not conquered. It is a reality that must be considered in interpreting China.

The concept of superiority rests on China's vast cultural achievements and on its repeatedly demonstrated ability to organize society and conduct governmental administration, optimizing Chinese concepts of harmonious society and cultural opulence. The concept is more cultural than political. "Culture" includes more than material and intellectual attributes—it includes the totality of human and social attributes, including character. Even China's periods of political distress have not blighted the concept; for superiority was evaluated culturally more than politically. In fact, political and military distress (as of the 19th and 20th centuries) have even provided the stage for validation of Chinese confidence of superiority. Even in calamity, did not the Chinese rout the foreign Manchus in 1911, in their view the Japanese in 1945, and Westerners in 1949?

Traditionally, superiority was not measured in terms of military power; but there is belief today that superiority must be reinforced by military power, even though superiority is understood to be basically cultural. The Chinese People's Republic has not denied China's cultural greatness and retains regard for its cultural heritage. This regard for China's cultural heritage is an aspect of current belief in superiority.

The concept of superiority was an inevitable, normal, and natural development of China's foreign relations for 2,500 years. With their own criteria for

supremacy, social refinements of human relations, and material opulence of the elite bearers and beneficiaries of culture, the Chinese saw on all sides—from antiquity to the present—barbarians uncultivated in the ways of culture—barbarians who were predatory, uncouth, inhumane, and barbaric. Moreover, through the centuries, people of many lands respectfully sought the privilege of life in China, and kings of all the world known to the Chinese expressed homage to and reverence for the Emperor. Some enlightened barbarians transplanted Chinese culture, institutions, and thought to their native lands, most notably the Japanese who took language, philosophy, religion, art, city planning, dress, and almost everything except, unfortunately, Chinese cuisine! The Chinese had no alternative to conviction of their superiority.

The significance of this attitude is manifold. China's perception of superiority contains both assets and liabilities for China—sources of strength and elements that create problems for China in the modern world. I shall touch only a few of both assets and liabilities.

With no crisis of identity, the Chinese have no uncertainty about who they are. Conviction of past and inherent superiority provides the Chinese today with a clear goal—to make evident the reality of perceived superiority. The result of this concept of superiority is China's determination and confidence of its capacity to acquire what Chou En-lai calls "China's rightful place in the world." Additionally, confidence is a significant element of the conviction of superiority. The concept of superiority also has permitted a historic Chinese role as a benevolent imperialistic power in which it was able to cluster under its cultural umbrella the kings of the world who demonstrated respect for and awe of Chinese culture. The modern counterpart of this aspect of perceived superiority expressed in Communist terms is reflected in such statements as Chou En-lai's remark in January 1970, "The entire world awaits Chinese leadership for the revolution."

In spite of strengths for China derived from this concept, the undebatable conviction of superiority can do China significant disservice as China seeks a place in the world community. On this negative side of the ledger, two entries stand out. First, China's capacity for realistic self-assessment is anesthetized by the conviction of her superiority; *and* similarly her ability to assess other nations is decreased as she stands on the pinnacle of prejudice and perceives distorted images of the rest of the world. The result may be a large degree of self-deception. Secondly, there is the difficulty that China may have with the concept of the equality of nations; for China has never conceived of herself as being one among equals, but rather always as China among inferiors in a hierarchically arranged world. Theoretically speaking, even the world's offer of equality could be interpreted as insulting, scornful, and disrespectful of China's self-perceived superiority. These are all perceptions with which China will need to struggle intellectually and emotionally whenever it may be willing to accept alternatives to a Chinese-dominated Communist world, and these are perceptions that other nations must understand as they consider their relations with China.

Chinese Concepts of Authority and Obedience. Principles of authority and obedience have been fundamental concepts of Chinese political and social organization. Related also are concepts of hierarchy and status, ethics, morality, ideology, and the omniscience and infinite wisdom of Chinese rulers. The combination is a concept of paternalism and political morality. Additionally there was belief in the infallibility of rulers (emperors or fathers), and associated responsibility for obedience of subordinates.

Chinese society (including government and family) was hierarchical and authoritarian. Basic attitudes included (a) respect for authority and (b) a sense of duty to obey. In principle, these attitudes were desirable and appropriate. The leader—ruler or father—theoretically exemplified cultivated virtue and accumulated wisdom. His behavior was in accord with accepted doctrine. He, the leader, therefore, knew what was best for those over whom he exercised authority.

At the pinnacle, even the Emperor's role was in part fatherly. He manifested illustrious virtue, provided a model of rectitude and benevolence, and filled the hearts of his followers with passion to emulate him. The righteous leader's wisdom and benevolence were unquestionable. Therefore, since his exercise of authority was for the welfare of his people, respect and obedience by subordinates were proper and desirable. To criticize or decline to follow was self-condemnatory and reflected moral waywardness that must be rectified through introspection, suasion, and indoctrination.

These attitudes of authority and obedience, and the accompanying characteristics, are evident in the Chinese People's Republic. Their presence may explain, in part, Mao's power over people, the seemingly fanatical desire to fulfill his wishes, the emphasis on rectification of character, and numerous other aspects of popular behavior.

The Nature and Power of People. Mao emphasizes the importance of people. He sees people as the source of power, surpassing in importance the material instruments of power. To him people are more important than all the sophisticated institutions and hardware of modern societies, and he chides the West for its disregard of the potential power of people, seeing therein a fatal error.

His emphasis on people is based upon the power of indoctrinated masses dedicated, even fanatical, in pursuit of stated goals. His concern differs from Western emphasis on the importance of people as developed by Western Judaic-Christian cultural heritage. His concern is on people power. His conviction is not from faith alone, for Mao's victory was created by the people power of the peasant masses, and he aims to prepare China for "takeoff" by prior preparation of dedicated masses.[1] This explains Mao's great emphasis on the indoctrination of people.

I think Mao views the man of the masses as intrinsically good—even though some men have been misguided and have developed aberrant and incorrect ideas. With these beliefs he sees (as did even the Confucians before him) man's susceptibility for correction, for development of rectitude, and his potential for correct thought and deed. Thus Mao places great emphasis on education, political indoctrination, and the development of correct thoughts. Perhaps even, unconsciously influenced by the Buddhists, Mao emphasizes introspection, self-criticism, and self-cultivation as the means of achieving his goals of popular political and social education.

All this adds up to enormous effort for the development of man—for the party, for China, and for the revolution—to an expression of confidence in the capacity of the masses to develop character that will make them invincible.

Chinese Concepts of Time. Concepts of time differ from society to society. Each society tends to function within roughly identifiable concepts of time. To illustrate by two extremes, people of the United States tend to function within and under the influence of a concept of time that is very short, whereas people of traditional China tend to function within and under the influence of a concept of time that is

extended. For the United States this concept of time is one or two generations (20-40 years); for China it is one or two centuries. Other societies may tend to function at these extremes or somewhere in between.

Thus, the Chinese possess a concept of time that vastly differs from our own. This is a capacity to think of time in terms of decades and centuries—rather than years and decades. This difference is important, because an individual's or a nation's programing pursuit of goals is related to his concept of time. If we desire to understand Chinese activity and to evaluate activity by criteria relevant to China, and not to the United States, we must understand Chinese concepts of time.

By concept of time I mean the ability to conceptualize time. Concept of time is one's time consciousness. It is the extent of time within which a people envisage accomplishment. It represents the time factor within which accomplishment is planned, programed, and pursued.

The concept of time—time consciousness—is related to and reflects one's feeling of *involvement of one's own personal values* within a time frame. A Chinese easily feels personal involvement within a time frame of a century—for some Chinese, much longer. He has the capacity, to *conceive* and *perceive* in personal terms, events in which he is personally a part and involved within a time frame of a century or more. In contrast, the time frame within which we Americans feel personally involved is probably a maximum of about 40 years, with gradual shortening as we increase in age.

One's capacity to conceive of time with which one is personally involved is culturally created. The important factors determining the difference between Chinese and Western (notably American) creations of time concepts are differences in identification of the basic social unit—for the Chinese, the *family;* for the Westerner, the *individual.* Involved in these differences are differences in attitudes toward ancestors and descendants and related to all of these is each individual's sense of personal involvement with the people (relatives) with whom he is culturally conditioned to feel a personal relationship, acquaintance, and involvement.

Let us look at the differences between the Chinese and the American concepts of family. The Chinese is reared and conditioned to think of himself as a subordinate element in the basic group—the family. Traditionally, the Chinese male was never free of his family—nor did he wish to be. Moreover, he had active responsibilities toward not only living antecedents and descendants, but also for identified ancestors for many generations. He brought his wife into his family home, and he reared his children there. He found himself in continuing association with his parents and possibly paternal grandparents (if they were living). His sons, in turn, brought their wives to the home and had their children there. Thus, he was in intimate personal association with five generations. Taking 20 years as the rule of thumb span for a generation, we see his personal involvement and intimate personal acquaintance with blood relatives who span a century. Moreover, his involvement is more than a mere acquaintance with these relatives; for the Chinese concept of family imposes upon him an individual responsibility in relation to each and all of these five generations. His involvement is intimate, real, and active.

Furthermore, in many Chinese families the active consciousness of the tie to and responsibility for members of the family is extended way beyond the five primary generations which he probably has known personally. As a minimum, this extension of consciousness is for 10 antecedent generations; it may be for many more than 10

generations. This consciousness is maintained and is reinforced by scheduled ceremonies at the beginning of each New Year when portraits of ancestors for 10 generations are ceremoniously hung and are the focus of reverent rites. Their accomplishments and their roles in creating the living members of the family are recalled and respectfully recounted. This extension adds another century and a half to Chinese conceptualization of time. In the cases of "great families," this extension of awareness derived from focus on ancestors may go back a thousand years or more. For example, the late Dr. H.H. Kung—the great financier and brother-in-law of Madame Chiang Kai-shek—claimed that he could document his lineage back to Confucius who lived about 500 B.C. and whose name was K'ung.

This sense of a personal relationship with a span of time that would not concern us is suggested by the answer one might receive from a Chinese when one asks him where his home is. He might reply, "Shansi."

"And when were you last there?"

"Oh, I've never been there. You see, that's where my grandfather lives, and his ancestors lived there. Our family home is in Shansi, but my father came to Shantung 50 years ago, and we have been here *temporarily* ever since."

The Chinese extended concept of time and the intellectual capacity to feel intimacy over vast time spans are reinforced by a strong sense of history. Great emphasis on historic events, stretching back into the heroic legendary periods of 4,000 years ago, and stories emphasizing the virtues and vices of leaders and people of every century have created a feel for vast spans of time. Even peasants, on hundreds of occasions (possibly every week or 10 days at market time), have watched itinerant troupes of actors or heard the ever-present professional storyteller in the market tell of the heroes and villains of legendary and historic times. Every schoolboy (including Mao) has read of third century warfare, the cunning and treachery in the *Romance of the Three Kingdoms*, of the 12th century Robin Hood-like bandit exploits in the *All Men Are Brothers*, and the romantic social novel *Dream of the Red Chamber*, which takes the reader back in time "4,623 years." These exposures to history over thousands of years and the vivid reality portrayed by the marketplace storyteller have made centuries and millennia of history vital, vibrant, and real for every peasant. Urbanites—workers and gentlemen—had the popular opera which, similarly, focused on historical events and persons of the past 2,000 years.

Americans, on the other hand, are conditioned to be individuals—to stand on their own feet, to be independent of their parents and family groups, and, later in life, to be independent of their children. Ancestors are of no great importance, and descendants are of only casual importance. Descendants tend to be haphazardly conceived, nervously nurtured, and joyfully released to the same detached freedom and independence that the parents themselves desired and acquired a generation earlier. Adult children tend to wish little from their parents, and the parents expect nothing from their children. Consequently, the time frame of personal involvement in the United States is the time frame of one generation, and we may think of that as somewhere between 20 and 40 years. And as we grow older, the space of time within which we think shrinks. As a consequence, our capacity to think in the time frame concept of the Chinese is virtually impossible.

If you protest that I am overplaying Chinese and underrating our family sentiment and consciousness, I ask you to recall the full names of your four grandparents (that's only two generations back). I estimate that less than 20

percent of you can do it and that a majority of this 20 percent knew them personally. This lecturer still cannot provide the answers. Why? Because I am a typical American, and I do not care about ancestors.

What does all of this mean in practical terms? What do the Chinese do with their extended concept of time, their sense of having more time? Do they just take longer to do what we would do in much less time? Or do they do something different?

I think they operate differently. It means, among other things, that the Chinese may program their pursuit of goals very differently from the way Americans would devise programs for China, and they may operate on bases of priorities that would differ from those of the United States. Awareness of the role of China's different concept of time may give us an understanding of China that otherwise may prove elusive. Certainly if we interpret Chinese behavior and potential based on Western concepts we run the danger of seriously deceiving ourselves.

By way of illustration I suggest that perhaps both programing and priorities for national development, as conceived by the Chinese of the Chinese People's Republic, are related to the Chinese capacity for a very extended concept of time. Recognizing calculated programing and planning that differ from our concepts of what "makes sense" may help us better to evaluate Chinese behavior without gross errors that are likely as we apply Western criteria for national development.

In regard to programing there is a vast difference in the way pursuit of goals is programed when attainment is conceived and pursued within a time concept of, say, 20 years or a century. How often may we be impatient with a teenage son who shows no evidence of preparing for dinner or a trip, until the last 5 minutes when he goes furiously through a series of rapid actions—all of which he had carefully programed previously in his own mind but which we did not understand. I think we should seek understanding of apparent Chinese programing in this context of "time concepts."

In evaluating China's willingness to pursue goals and capacity for attainment, a different time concept must be applied; for China can visualize goals that may be attainable only within, say, 100 years. China, thus, may program national growth within this extended concept of time. Thus, what we in the United States might see as China's inability to attain stated goals, may merely mean that, in terms of China's time schedule, it is premature to expect evidence of any concrete results. Chinese programing toward attainment may not provide for developments in the near future that would yield evidence of capability. Thus, American estimates of Chinese behavior based on American concepts would disregard programing within a different time concept and would therefore be erroneous.

Concerning priorities, with conception of available time as relatively unlimited, the Chinese may proceed under a system of priorities that differs from the priorities Americans might establish. In problem solving (and China's core problem is essentially national development to goals established by the Chinese) with extended time available, the sense of what comes first—what is absolutely basic—may differ radically from what we might place first in national development.

For example, Americans would emphasize economic development, thereafter building the organizational structure to suit economic development. Is not Mao's emphasis on development of correct attitudes and on "politics takes command" perhaps an endeavor to get the attitudes—political and social organization—and the masses in line before launching off into spectacular economic development? If we see this as Mao's

intent, one then can see the rationality (from the Chinese point of view) of those activities in China that have seemed to us irrational and in opposition to progress—such as the Cultural Revolution, the Red Guards, and excessive reliance on the "Thoughts of Chairman Mao."

Directly related to concepts of time, I think, are the attributes of, *inter alia*, patience, endurance, tolerance, and resolution. These are characteristics relating to national power. Understanding these characteristics in the context of a nation is an asset for analyzing, estimating, and forecasting. Relating these to American and Chinese time concepts, the American tends to be negative and the Chinese positive in possession of these characteristics. Americans tend to have culturally created short fuses on patience, endurance, tolerance, and resolution. In contrast, the Chinese pursue long-range objectives with culturally created patience, endurance, tolerance, and resolution. The Chinese expect accomplishment to involve extended time—even "five or ten generations" (Secretary-General, Chinese Communist Party). "Time is on our side," says Mao Tse-tung, "we are in no hurry." Americans, thus, by their cultural conditioning have made an enemy out of time, while the Chinese have made it an ally.

A nation must determine whether its concept of time with attendant characteristics—patience, endurance, tolerance, and resolution—is a strategic asset or a strategic liability. I think the Chinese feel their concept of time as both an asset and a liability. Hence, we observe a phenomenon of contradiction. They manifest patience as they view progress towards very long-range goals; simultaneously, they incite struggle and fanatical activity. For me, the explanation of this contradiction is the Chinese belief that these attributes of patience, endurance, tolerance, and resolution are strategic assets, while they fear at the same time that these attributes may deteriorate into lethargy, procrastination, detachment, and inactivity. Thus, we see the Chinese People's Republic negating the negative of these virtues by creating a sense of urgency, activity, and struggle. Thus, the Chinese illustrate efforts to exploit the assets of the extended time concept and to negate the liabilities.

How does Mao Tse-tung's concept of time relate to traditional concepts, and what is his perception of the nature and use of time? Mao's perspectives on time also differ greatly from those of the West. This is what we should expect; for Mao is Chinese. Related to and derived

BIOGRAPHIC SUMMARY

Professor Clyde B. Sargent completed his undergraduate work at Denison University in political science in 1930 and a master's degree in English at Trinity College in 1932. He then took a master's degree in Chinese language and civilization from the College of Chinese Studies in Peking and taught for 6 years as Chairman of the Foreign Languages Department of Cheloo University in Tsinan, China. During the war years, Professor Sargent served as a special assistant to the American Ambassador in Chungking and as a major in the OSS. In 1946 he returned to the United States and completed a doctorate at Columbia in Far Eastern studies. Since that time Professor Sargent has served in a variety of positions, including Political Advisor to the U.S. Delegation to the United States-U.S.S.R. Joint Commission on Korea (1947-1948), Director of Foreign Area and Language Training with the U.S. Government (1948-1965), and Professor of History with the East Asian Institute, Oakland University (1966-1967). Professor Sargent is presently occupying the Chair of Comparative Cultures at the Naval War College and serving as lecturer for The George Washington University graduate program there.

from his perspectives on time, Mao stresses the virtue of patience—the virtue of patience not just as an element of personal character, but as an essential ingredient in national strategy. Mao is quoted as saying, "What is a little time in history."[2]

Commenting on Chinese People's Republic admission to the United Nations, Mao said, "If we are not wanted here or there, we can wait ten years. China will always be China. It is not soliciting anything. In one hundred years, it will be even more difficult to ignore it [China]. No, we are not in a hurry. Time is our good ally."[3]

And, again, "Things take time. We are in no hurry. We can wait."[4]

On another occasion, discussing negotiations among the Big Four in April 1946, Mao confidently views a solution "earlier or later," and he defines "earlier or later" as "several years, or more than ten years, or even longer."[5] And elsewhere reference is made to "Mao's 10,000 year plan."[6]

Most famous of all expressions of Mao's perception of time is his favorite and often-cited ancient Chinese fable of "The Foolish Old Man Who Removed the Mountains":

> There is an ancient Chinese fable called "The Foolish Old Man Who Removed the Mountains." It tells of an old man who lived in northern China long, long ago and was known as the Foolish Old Man of North Mountain. His house faced south and beyond his doorway stood the two great peaks, Taihang and Wangwu, obstructing the way. With great determination, he led his sons in digging up these mountains, hoe in hand. Another greybeard, known as the Wise Old Man, saw them and said derisively, "How silly of you to do this! It is quite impossible for you few to dig up those two huge mountains!" The Foolish Old Man replied, "When I die, my sons will carry on; when they die, there will be my grandsons, and then their sons and grandsons, and so on to infinity. High as they are, the mountains cannot grow any higher and with every bit we dig, they will be that much lower. Why can't we clear them away?" Having refuted the Wise Old Man's wrong view, he went on digging every day, unshaken in his conviction. God was moved by this, and he sent down two angels, who carried the mountains away on their backs. Today, two big mountains lie like a dead weight on the Chinese people. One is imperialism, the other is feudalism. The Chinese Communist Party has long made up its mind to dig them up. We must persevere and work unceasingly, and we, too, will touch God's heart. Our God is none other than the masses of the Chinese people. If they stand up and dig together with us, why can't these two mountains be cleared away?[7]

Something of Chinese lack of concern with the rapid ticking off of time never to be recovered is reflected even in the lethargic tempo of public life—both traditionally and even in Communist China today. High officials move slowly, seem unbusy, and can extend official interviews for hours.[8]

"Two kinds of time" is true not only for China in contrast with the West and Japan, but also within China itself. Traditionally, there was contrast between the leisurely, effortless bureaucrat and the energetic and occupied private individual (the peasant and worker) who pursued a different tempo. Today something of the energetic tempo of the private life has become part of the character of cadres subordinate to the leadership; but the leader-

ship has retained the character of the leisurely, effortless mandarin. This contrast of tempo between the leadership and the cadres produces a phenomenon of conflict and tension within the government of the People's Republic of China. The cadres tend to respond to directives with inordinate zeal, often outrunning the officials. Thus, the officials were outrun by enthusiastic cadres, resulting in the excesses of the Great Leap, the Cultural Revolution, the Red Guards, and the purges of 1966.[9]

Some very interesting and extremely relevant current Chinese attitudes appear as we consider Chinese, and specifically, Mao's perspectives on time. Significant attitudes include:

1. Preparedness (psychologically) for a very long-haul pursuit of goals—a recognition that attainment of goals will require extended time, decades, even a century, and a preparedness to pursue goals within this time frame.

2. Recognition of infinite patience as a significant asset in pursuit of long-range goals.

3. Conviction of Chinese capacity for required endurance and perseverance.

It is not our task here to analyze further how the Chinese, including Mao, have developed a concept of time and derivative attitudes very different from our own. It is within the scope of this thesis only to recognize that the Chinese operate within a conceptualized time frame vastly different from our own. This difference in the concept of time is related to the significance of the family, to perceptions derived from "ancestor awareness," to a long cultivated sense of history, to the Chinese sense of identification with greatness and grandeur, to a congenital conviction of superiority, and to the unbridled self-confidence in Chinese capacity to surpass all known civilization once again.

Our need is to understand these perceptions and attitudes, and to expect China to pursue its goals within the framework of these concepts which are so totally alien to us.

And so I conclude an endeavor to share analysis and interpretations of selected Chinese attitudes that are part of "Chinese National Culture." My aim has been to add tools to strengthen our ability to understand the Chinese People's Republic—for whatever purpose we may have. These analyses and interpretations are largely my own and are open to further inquiry. It has been encouraging to me to find validation for most of these interpretations in the writings of Mao, and notably in his *Little Red Book.*

■

(Note: The author continues to search for perspectives to increase understanding of Chinese concepts of time and of the strategic significance of relationship between these concepts and Chinese behavior, notably of the Chinese People's Republic. Readers' comments are invited.)

FOOTNOTES

1. Mao Tse-tung *Quotations from Chairman Mao Tse-tung* (Peking: Foreign Language Press, 1966), ch. VIII, XI.

2. Chow Ching-wen, *Ten Years of Storm: the True Story of the Communist Regime in China* (New York: Holt, Rinehart and Winston, 1960), p. 81.

3. Mao Tse-tung, quoted in John B. McKinney, "Mao's Thoughts: Still a Blueprint for Action," *Military Review,* March 1969, p. 87.

4. "Vice-Premier Chen Yi Answers Questions by Japanese Journalist," *Peking Review,* 26 June 1964, p. 7.

5. Mao Tse-tung, quoted in Arthur S. Lall, *How Communist China Negotiates* (New York: Columbia University Press, 1968), p. 33.

6. Daniel Mason, "China: Mao's Great-Power Foreign Policy," *New World Review*, 3d quarter, 1969, p. 12-22.
7. Mao Tse-tung, p. 201-202.
8. Lucian W. Pye, *The Spirit of Chinese Politics; a Psychocultural Study of the Authority Crisis in Political Development* (Cambridge: MIT Press, 1968), p. 130-132.
9. *Ibid.*, p. 133-134.

Ψ

Lives of nations are determined not by the count of years, but by the lifetime of the human spirit. The life of a man is three-score years and ten—a little more, a little less. The life of a nation is the fullness of the measure of its will to live.

Franklin D. Roosevelt,
Third Inaugural Address, 20 January 1941

MINING: A Naval Strategy

The potential significance and utility of the mine in naval warfare has seldom been appreciated since its invention at the time of the American Revolution. The following historic narrative and analysis offer the reader not only a valuable review of past successes and failures of mine campaigns, but also a series of unique insights into possible roles for the mine in contemporary warfare.

A lecture delivered at the Naval War College

by

Professor Andrew Patterson, Jr.

The constraints of time require that my talk deal with the major considerations of mining as a naval strategy. I shall therefore limit my observations to an outline of the history of mine warfare and mention certain specific engagements of great naval significance, then comment on the mine and strategic materials, and conclude by summarizing some generalizations which become evident to one who has had the opportunity to study mining extensively. These generalizations will tell us a good deal about how the mine has been employed and how it might better be employed in the future. Although this approach is not exhaustively academic, I think it will provide a summary look at the subject.

If we define a mine as an instrument of warfare which is placed on or near a ship under the waterline to cause damage by the effect of its explosion alone, then we can clearly place the origin of mine warfare with one of my fellow Yale men, David Bushnell of Connecticut, class of 1775. Bushnell demonstrated to his fellow students and his professors that gunpowder could be exploded under water and then postulated and demonstrated experimentally that the bottom or side of a ship is more vulnerable to explosions under water than are sections above the waterline. He spent a considerable portion of his undergraduate years, even as Yale students do today, on something other than his studies, for by 1775 he had built and tested an operational one-man submarine and an explosive magazine or mine to be emplaced by it. His inventions were used in the War of Independence by the United States, but they had no notable success.

Robert Fulton, whom Americans credit with the invention of the steamboat, made the next major advances in the technology of mining. A

man of innumerable mechanical schemes and unbelievable energy, he first designed mines and then persuaded Napoleon to use them against the British. However, after losing the confidence of the French, he went to England and convinced the British to use his mines against the French. After leaving Britain, he tried to sell his idea for the defense of New York harbor to the American Government but failed, despite his strikingly modern McNamara-style cost analysis entitled "Torpedo War."* [1] He calculated that a third-rate ship of the line (one of 80 guns and 600 men) would cost $400,000 to build and equip, while the same 600 men placed 12 at a time in torpedo boats, would cost, for the craft plus outfitting with torpedoes, only $24,300, resulting in a saving of $375,700. He also assessed the relative safety in a major battle of those in a defending ship of the line *vs.* those in the torpedo craft and concluded the latter would be better off. Fulton's ideas, while definitely sound, were ahead of the technological level of his weapons.

Samuel Colt, also of Connecticut and famous for his invention of the revolver pistol, began to experiment with mines at the age of 15. In 1842 he adapted an electrical firing device to his mine designs, developed and built a successful sheathed underwater cable, and conducted numerous spectacular and successful demonstrations of his system, some of which were against moving craft at considerable distances from the firing point. Again, the U.S. Navy could not be sold on the idea of mines, in spite of the public and political popularity of Colt's devices and system.

Further developments took place then on the Continent, leading to the planting of electrically detonated wine-cask mines at Kiel during the Schleswig-Holstein War of 1848-1850. Mines were planted by the Russians in the Crimean War of 1854-1856 at Sevastopol, Sveaborg, and Kronstadt. These utilized the Jacobi fuse, a kind of chemical horn firing device. In the French-Austrian War of 1859, the harbor of Venice was protected by mines containing up to 450 pounds of guncotton rigged to be fired electrically. Finally, these European developments were also recognized in Asia where the Chinese used mines in their war of 1857-1858 with the English.

None of these installations entailed any actual battle experience, however. It was not until our Civil War that mines were seriously and effectively employed. Matthew Fontaine Maury, the noted American oceanographer, concluded early in the war that the vast shoreline and river systems of the South could not be protected by a new nation which had no navy to speak of, except by the use of mines. If we define tactical to mean operations within an engagement limited in space and in time and strategic to mean the deployment of forces and materiel on a large scale—often in advance or over a protracted period—the South was unable to develop any overall strategic concept for the use of mines. It had no time for advance preparation and was lacking in both resources of men and material and, therefore, could do little other than meet immediate threats. Nevertheless, the events of the obviously successful Southern mine and spar torpedo campaign speak for themselves. By the end of the war, 29 Federal vessels were sunk and 14 damaged in major degree. Certainly, considerable planning went into the installation of several electrically

*Bushnell who first used the term, chose to call his weapon a torpedo, after the electric torpedo fish found off European coasts; the root Latin verb, torpere, means to stun. This name was used for the weapon we now call the mine through most of the 19th century when the advent of the self-propelled torpedo caused the named stationary device to be called the mine.

controlled minefields in strategic rivers, but the majority of the efforts were in the form of improvised but ingenious tactical maneuvers in the face of a vastly better equipped and numerous enemy. These efforts created stalemates in nearly all the major rivers, notably the James, prolonging the war not just for months, but for years.

I should like now to pass rather rapidly through the years 1865 until the present, picking out some engagements involving mines which were decisive in establishing the strategic and tactical uses to which mines could be put.

In the Russo-Turkish War of 1877-1878, the Russians wished to keep the elements of the Turkish Fleet separated and immobilized. They did so by planting mines at strategic spots in the Danube, spots so well chosen that the British planted aerial-laid mines at the exact same places in WW II. Although only one sinking is credited, the Turkish battleship *Suna*, the combined Russian effort with spar torpedoes and mines reduced the effective strength of the Turks to zero and transferred the initiative into Russian hands.

You will recall that this was the period during which the iron navies were developing and replacing sailing ships. It is curious to us today that developments in ships and armament, particularly including mines, were widely publicized and discussed. The Austrians, for example, displayed their mining system at the Paris exhibition of 1867, and Maury would give instruction in mining systems to the representatives of any government which could pay his substantial fee. This openness continued to the turn of the century.

Then the Russo-Japanese War of 1904 and a new climate of international mistrust changed things. The Russo-Japanese War constituted the first major confrontation between world powers using modern mines, a confrontation which warfare theorists had been calling for if mines were to be tested in the heat of battle as a system of weaponry. The Japanese mined offensively, placing fields across Russian harbors with considerable daring and then enticing the Russian Fleet out with a show of inferior forces. The Russians mined defensively, managing thus to extend their shorelines effectively to seaward, making it impossible for the Japanese Fleet to bombard the shore defenses. Six Russian ships were sunk by Japanese mines, one by a Russian mine. Eleven Japanese ships were sunk by Russian mines. Many ships and small craft of several nations fell victim to floating mines after the war was over, giving rise to the Hague Convention on mines of 1907.

Perhaps the most classic and history-making strategic action employing mines was by the Turks, possibly with aid from the Germans, in the Dardanelles in 1914. Using a mixed bag of mines and nets of uncertain origin and quality, the Turks mined the straits, employing an inspired combination of shore and naval weaponry, and undoubtedly changed the course of history. The minefields, at first rudimentary but later expanded, were guarded by shore batteries and searchlight installations, making it impossible for the British to sweep the fields. Attempts to do so were abandoned after the British lost four dreadnoughts to mines and shore fire. As a result of the blockade, Russian wheat did not leave the Ukraine, Turkey was not surrounded from the north, Turkey and Bulgaria were not separated by the naval wedge that Britain hoped to drive between them; but, most of all, the British suffered a major psychological defeat as well as a significant loss of ships and men.

The campaign by Russian Adm. Nikolai von Essen against the Germans in the Baltic was well planned in advance and brilliantly executed. Unfortunately, it was terminated by the

admiral's death in 1915. A concerted effort went into training elements of the Baltic Fleet in minelaying, and many destroyer hulls were converted to or developed as minelayers. Owing to the long 6-week period between the precipitating assassination and the declaration of hostilities, there was plenty of time to lay mines during the period of mobilization. While the Russians laid mines mostly for defensive protection of their own harbors and shore areas, they also mined offensively to interdict traffic on the Scandinavian-German iron ore routes. After the Germans laid minefields, von Essen expanded them and converted them into his own, creating havoc in the German Fleet. He then made fast runs into German harbors with minelaying destroyers, virtually cutting off the flow of iron ore, and preventing the German Fleet from giving fire support to shore-based forces. On one occasion alone, the Germans lost seven of 11 ships in the 10th Destroyer Flotilla.

A mine barrage of major proportions had been planned by the British Admiralty in WW I against the German concentrations at Heligoland, but its cost caused Churchill to turn it down as impossible. Furthermore, in 1914-1915, the British did not have a reliable mine to use, much less the numbers necessary to mount such a barrage. It was not until the United States entered the war and made its technological and production facilities available that it was possible to mount this offensive. By this time the British had developed the successful H2 mine, which was embodied into the Mk 6 mine, with float, antenna, et cetera. These made the mine barrage possible since they were able to watch over a much greater volume of ocean. Thus the decision was made to close off the entrance for German subs into the North Sea; by the end of the war, 70,117 mines had been laid. Not many sinkings can be attributed to the barrage. Rossoc in his British report claims five, and Admiral Scheer says none. However, the barrage did force the Germans to traverse a greater distance to open water, with consequent delay, and the morale effect for the beleaguered British and the anxious Americans probably was significant. The cost of the barrage has been reckoned as equal to the cost of running the war for 1 day. Hence, if it shortened the war by 1 day, which it may well have done through its morale (if not ship sinking) effects, it was a good investment.

During WW II the United States conducted two major mining operations in the Pacific. The initial campaign was in the southern and outer reaches, and this was followed by a close-in operation around the Japanese home islands in what has come to be known as Operation Starvation. These campaigns were singularly successful in spite of the fact that

> There was at no time in the past war an over-all plan for a mining campaign against the Japanese, and as a consequence offensive mining was not included in the major strategy of the war. . . . Mines perhaps more than any other weapon of equal accomplishment, were orphans during the war. Even though approval and encouragement were received from the high commands, much of the initiation and promotion of the mine laying campaign can be traced to the relatively small group of enthusiasts engaged in the work.[2]

During the last 5 months of the war, more than 1,250,000 tons of Japanese shipping were sunk or damaged by mines, and a virtual blockade of the Shimonoseki Straits and of the inland sea was affected. The aerial mining campaign is credited by Prince Konoye (and other knowledgeable Japanese officers) with having an overall

economic effect comparable to all the other bombing and incendiary raids conducted. Thus an effort in mining requiring 5.7 percent of the XXI Bomber Command's flying time was comparable to all of the remaining 94.3 percent given to strategic bombing. Mines sank and damaged more shipping than any other agent, whether it was submarines, Army or Navy air forces. Despite this phenomenal success, the attack was very nearly too little and too late, as had decidedly been the case with the North Sea barrage. The bulk of the mining was of a strategic nature, although a number of tactical mining campaigns were mounted in support of amphibious operations when it was desired to interfere temporarily with movements of enemy ships; examples of tactical employment of mines would be in the Solomons, Rangoon, the Marshall Islands, Palau Atoll, Truk, Wolcai, and the Shimonoseki Straits.

I cannot end this brief historical recital without mentioning the incident at Wonsan, Korea. There was plenty of evidence that mines were being used by the North Koreans, for there had been sightings of drifting mines and of minefields on both coasts. Accordingly, plans were made to sweep for 10 days before the planned landing at Wonsan. What was not perhaps fully anticipated was that the Russians had given the North Koreans mines, torpedoes, and depth charges as well as technical training and direct supervision in planning and laying the fields at Wonsan. In the first 3 days of sweeping, American forces lost two large steel minesweepers and were so demoralized that the following message was sent to the Pentagon: "The U.S. Navy has lost command of the sea in Korean waters . . . ." Sweeping was abandoned and searching for mines instituted for 2 days. Then as the sweepers had cleared a channel and neared the shore, influence mines were encountered. Seven more days were required to complete the sweep, and the commanding officer of the landing force wisely concluded that, because of ROK advances on land, the landing was not required until the sweep could be completed. Of the estimated 3,000 mines laid, only 225 were swept and destroyed. The remainder lay outside swept channels.

In retrospect, the major result of the Wonsan encounter was a revitalization of U.S. Navy mine countermeasure activity. One cannot view the Wonsan incident as anything but a major victory for the Russians. In exchange for 3,000 obsolete mines, many of WW I vintage, a majority of pre-WW II style, the United States, aside from losses of ships and men, was committed to a continuing program of mine countermeasure expenditures extending into the multimillion dollar range. While this was good for the United States, it was a cheap trade-off for the Russians to force us to spend that kind of money.

Turning to some selected historical observations carefully picked from the panorama outlined above, significant conclusions can be reached. It is a surprising fact that *all* ship sinkings in the European theater in WW II were in depths of less than 600 feet, while in WW I the bulk of ships were sunk in similar inshore waters. During the 3 winter months of 1917-1918, 200 ships were sunk within 10 miles of shore (63 percent) while within 50 miles of shore an additional 35 percent were sunk, for a total of 98 percent ships sunk, all in waters not more than 50 miles from shore. From February 1917 to October 1918, 2,000 ships were sunk; 43 percent 10 miles from shore, 29 percent within 50 miles, for a total of 72 percent sunk within 50 miles of shore. In a similar way, during WW II every British battleship, fleet carrier, and cruiser sunk or damaged; every British submarine sunk in enemy action; every German warship, cruiser sized or greater; every German warship torpedoed by Soviet submarines; every Italian surface ship or

warship damaged by submarine action; every Soviet warship sunk by submarines; *all of these* were sunk in waters of less than 600-foot depth.

The reason why these sinkings, a significant number of which must have resulted from mines, took place in comparatively shallow waters near shore is quite evident. Transiting upon the ocean's surface takes place between a comparatively limited number of ports, whose location is determined by favorable conditions both ashore and offshore, as well as by historical accident. These ports are quite commonly approached through waterways which are restricted in one way or another by local or distant geography. The economic health and survival of these ports hinges on access to and need for various commodities and strategic materials. Minefields have characteristically been placed at points where ship traffic is expected, and attack submarines or surface ships would hunt their prey in similar waters.

An obvious implication of these data is that very little mining has been done in deep waters and that, hence, there is an unfulfilled need for a good deep-water mining capability. Except for those areas where the Continental Shelf extends far to sea, as it does on the east coast of the United States, there are uses for deep-water moorable mines near shore. In addition, the paths of much ocean traffic in deep water are still fairly narrowly defined by the desire to sail the minimum possible distance between established ports, modified only by intervening geographical features or by wind or weather.

Three charts emphasize what I mean. First is a depiction of the narrow waters of the world. Places marked 1 are 25 fathoms or less; 2, 25 to 200 fathoms; and 3, greater than 200 fathoms. Much traffic seems to go through narrow waters. Next is shown the major ports of the world. If this were overlaid with the preceding chart, most of these would be within narrow, shallow waters. Finally there is a track chart of the world showing selected tracks between these major ports. It is here where most of the world's trade is funneled, eventually through the narrow, shallow waters previously depicted.

I leap to a conclusion from these figures, and the history of mining seems to convey this point in general, that it is the ships and men themselves, more than the cargoes, which are the prime strategic materials. I leap also from strategy to strategic waterways. This was certainly Fulton's idea when he wrote *Torpedo War* in 1810. It was likewise the motivation for the use of torpedoes (that is, mines) during the Civil War, since the South could not blockade the North's sources of strategic materials. Only in WW I and WW II did the attack on cargo ships begin in a concerted way, and then, again, it was the ships and their generalized contents that were the targets, rather than attempts to control any particular materials. In both of these wars the attempts to establish the North Sea barrage or the Scotland-Iceland barrier were for general strategic and political objectives rather than for the control of specific strategic materials. Not the least of the objectives of mining is to cause the adversary to expend relatively large amounts of his substance on minesweeping and countermeasures; large amounts of this substance consist of ships and men, to which a few strategic materials, like copper, are added. There are clearly notable exceptions to mining in this generalized strategic sense: the classic examples are the Russian and British use of mines in both World Wars to deny high-quality Scandinavian iron ore to Germany, both of which were singularly successful. These exceptions do not alter the conclusion, however, that in a large majority the targets of mining have not been specific strategic materials, but more generalized

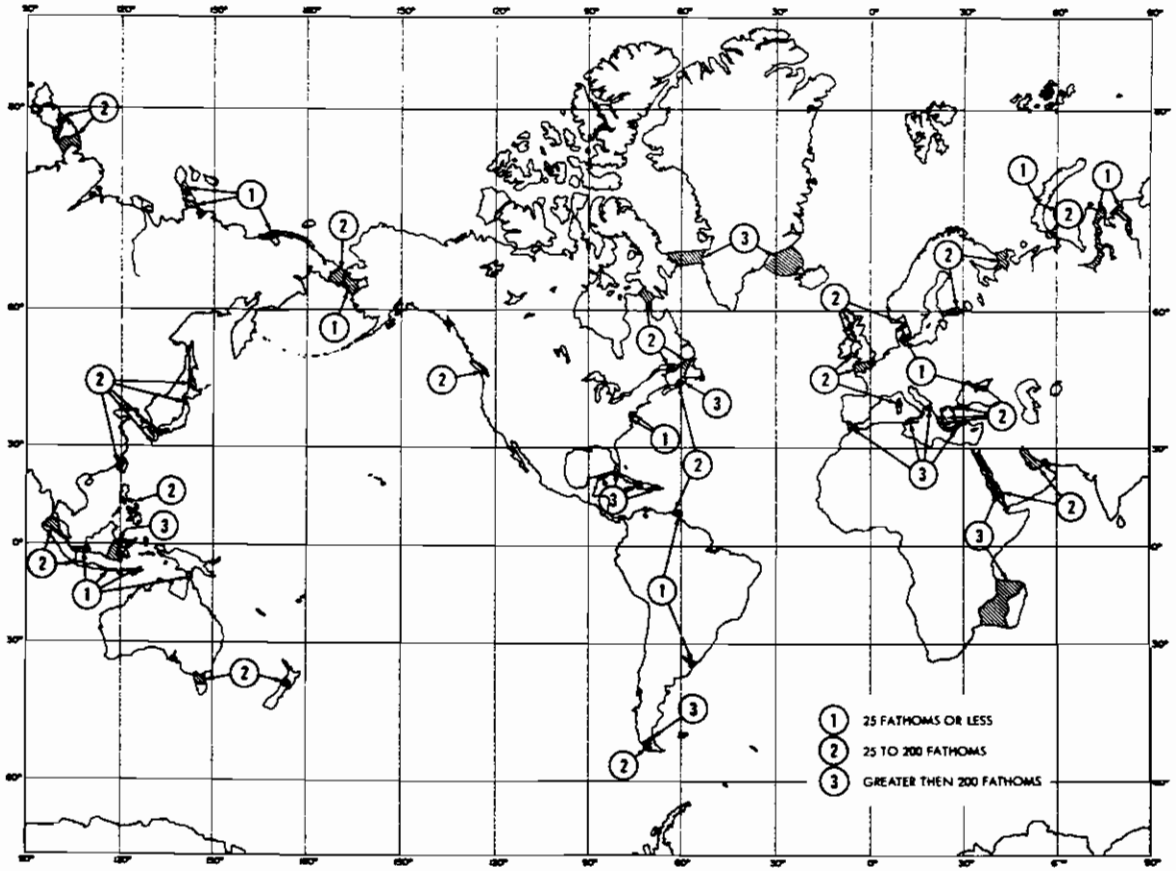

Fig. 1—Depths of Narrow Waters

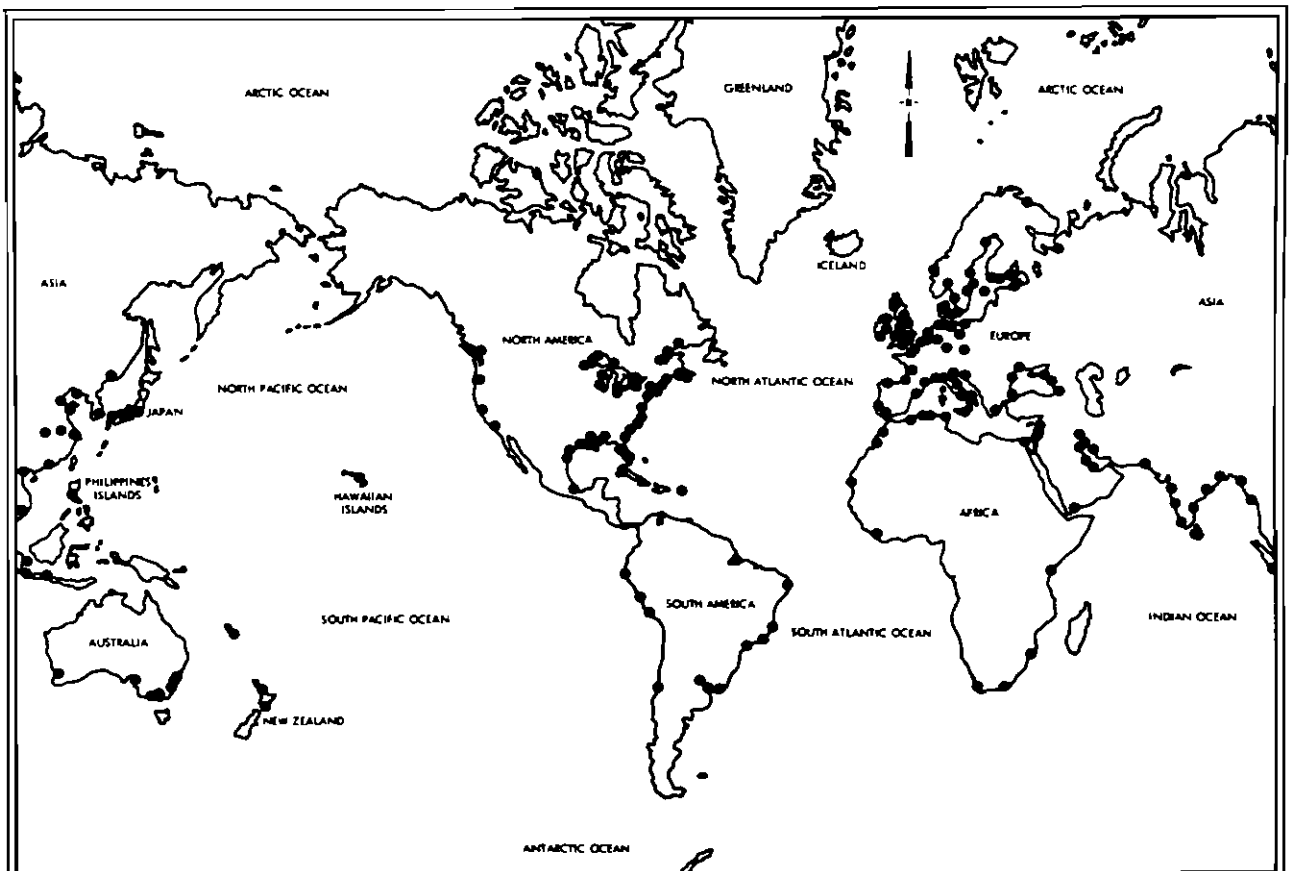

Fig. 2—Major Ports of the World

Fig. 3—Track Chart of the World (Showing selected tracks, within distances from place to place in nautical miles)

objectives. When these have not been men and ships, they have been political. Although in WW I the Allied Powers were anxious to get arms to Russia in exchange for her wheat, the Central Powers and Turkey undertook the mining of the Dardanelles not because of these materials, however strategic they might have been, but for political reasons. The targets sunk by those 20 mines at Erenköi were British battleships, British seamen, and British national prestige and pride. Brittania no longer ruled the waves!

To rephrase the historical lesson another way, few mining episodes or campaigns have been undertaken with specific raw materials as their goals. The goals have been larger: political and strategic and directed against ships and men themselves. These I deem to be the prime strategic materials.

Why this should be so is puzzling. It would seem to indicate lack of foresight on the part of strategic planners. It is certainly true that the strategic materials we depend upon—food, fuel, and certain minerals—often come from a few limited places. Nickel is a good example. Until WW II nearly all came from Canada. Cuba is now a significant producer, ironically from mines developed by the United States during WW II. There are numerous other strategic materials which come from only a few places, Persian Gulf oil being a particularly significant example.

I would go so far as to venture that, except in extended wars of the WW I and WW II types, it is not permissible to speak of the strategic uses of mining. The uses which have been made of mining lie elsewhere—in the political and psychological realms—a topic I shall defer to a subsequent part of this talk.

A second item which stands out in the historical record is the degree in which proponents and opponents of mining have been "true believers" in the Eric Hoffer sense of the term. From the times of Bushnell, Fulton, and Colt, mine developers have pressed and fought enthusiastically for the adoption of their ideas against others even more passionately opposed. Thus, when Fulton proposed mines first to the French, Admiral le Pelley, who was of the old school, refused to be interested because he had "conscientious scruples against such a terrible invention."[3] Fulton's encounter with Commodore Rodgers was not very much different, the commodore finding Fulton's torpedoes to be "comparatively of no importance at all; consequently they ought not to be relied on as a means of national defense."[4] While the proponents of mining have evidently believed in the efficacy of their weapons, their opponents have been motivated by a variety of very human emotions. The Earl St. Vincent, First Lord of the Admiralty, feared he would soon be out of a job when he said to Fulton, "Pitt" [who had supported Fulton's experiments in England] was the greatest fool that ever existed, to encourage a mode of war which they who commanded the seas did not want, and which, if successful, would deprive them of it."[5] This polarization of true believers is no doubt connected with the quote given above from the Strategic Bombing Survey which found that at no time was mining a part of the grand strategy of WW II. I raise the issue to indicate that among the arguments which are necessary if mining is to be used effectively as a weapon of war are those against prejudices of a number of different types.

A third feature of mines, which is of paramount importance in their tactical and strategic use, is their characteristically high degree of cost effectiveness. A string of 20 very ordinary mines off Erenköi in the Dardanelles probably altered the course of history in the Middle East. But of the mining expeditions which have been conceived on a large scale and postmortemed in detail, none is a better example than Operation

Starvation around Japan at the end of WW II. Sherwood Frey has taken data from the 1946 survey [referred to above] and converted them into a modern cost-effective format, using contemporaneous dollar figures. Among the conclusions are: Mines laid by aircraft and submarines produced from 2 to 10 times the merchant ship sinkings yielded by submarine torpedoes per unit of cost. Air-laid mines, producing about eight sinkings per million dollars of cost, were about 50 percent more effective per unit of cost than were submarines laying mines. However, there were *no* casualties to submarines on minelaying missions. It thus appears that submarines achieved a greater cost effectiveness using mines than they did using torpedoes. The effectiveness-cost ratio for submarines using mines is 4.7 casualties per million dollars of cost, while for submarines using torpedoes it is only 1.1 to as low as 0.36 sinkings per million dollars of cost, depending on how the initial investment in the submarines is handled. A reverse datum which would be instructive is the expenditure the United States has made on mine countermeasure activity divided by the cost to the Russians and Koreans of the mining at Wonsan. The figure, indeterminate for the present, is undoubtedly very large; it would affirm again and with vigor the statement that mining is cost effective not only in targets sunk, but also in expenditures made by the reacting opponent.

One can, of course, quote less favorable data. The North Sea barrage was singularly ineffective in terms of the sinkings it achieved for the costs it entailed. This may suggest, as do other experiences, that we should devise more comprehensive methods of measuring costs to the opponent other than simply the number of ships sunk. We need to quantify how much a delay or a longer route costs him. How much is it worth to demoralize his seamen or strike fright in the heart of his populace? On these scores we know mines have been singularly effective also.

I would like to emphasize the obvious point that mines should not be utilized as a sole element in a strategy, as the figures quoted above may seem to indicate they have been. They should be used as a part of an integrated or coordinated strategic or tactical plan. In the Pacific,

> on 30 and 31 March 1944, prior to the planned US landings at Hollandia in North New Guinea, carrier aircraft attacked Palau (Atoll) with mines and bombs in order to reduce its effectiveness as a base from which the Japanese could launch a possible counterattack. The attack consisted essentially first of mining all exit passages to prevent the escape of enemy ships, then a direct bombing attack in which all the trapped ships were either sunk or beached, and finally the mining of the anchorage and the bombing of installations to prevent the further use of the Atoll by enemy vessels. The operation was completely successful, and Palau was abandoned as a forward enemy base shortly afterward.[6]

Thirty two ships were bottled up in the harbor; three were damaged by mines, and the rest would not risk trying the mined channels. All the ships were destroyed by bombing. A more successful combined tactical strike is hard to imagine.

But of all the factors which stand out when one contemplates the history of mine warfare, none is as noteworthy as the profound psychological and political impact of their use. Almost invariably the danger of mines is subjectively judged to be vastly greater than the actual or real threat the mines may present. Acknowledging that the "effect of mines" and "actual threat" are not

easily quantifiable—or indeed as a very consequence of this unquantifiability—this general statement will stand unchallenged.

The simple mention of the word *mine* by governments has closed seaways and precipitated wars. It is interesting that the Egyptians seem especially prone to the use of verbal minefields: at least three historic instances bear recalling. In the Israeli 6-day war of 1967, Egypt announced a blockade of the Gulf of Aqaba, stating mines had been laid. In the Suez incident of 1956, Egypt stated the approaches to Alexandria had been mined and that the Gulf of Suez was dangerous to navigation. In both cases these statements were major factors in precipitating the crises into armed conflict. A much earlier incident throws illuminating commentary on the latter two. During the Arab-Pasha uprising of 1882, hundreds of steamers were tied up outside the Suez Canal because of the reported planting of mines. As an Italian warship steamed up, its captain, the future Vice Admiral Morin, inquired the cause of the congestion and was told of the mines. He reportedly replied that the Egyptians had hardly the skill to lay mines properly, and if they had been laid as long as claimed they were probably ineffective, and steamed through the canal. His calculated risk broke the verbal blockade.

To repeat, the use of mines, or on occasion just the statement that mines had been planted, has most often resulted in extreme political reaction or overexaggerated psychological and emotional reaction. As Lott puts it, speaking of Farragut's fleet during the Civil War, "Sailors hardened to the smoke, noise, and pandemonium of close-range cannonading were stunned and demoralized by the sudden and unexpected mine blasts."[7] The fact that the mine threat usually remains hidden, unknown, uncalculated, and unassessed leads to the necessity to make decisions on what are emotional rather than rational grounds. I am indebted to Vice Adm. E.P. Aurand for a perceptive interpretation of this point. As he puts it, the important thing is not your calculation of the minefield's effectiveness or threat, but the enemy's *guess* of its threat. Historically, though with the usual exceptions (Damn the torpedoes, full speed ahead!), the tendency has been to overestimate the threat. The very great payoff rate of mines (a $350 mine can sink a $1 million ship) surely adds to this effect, since the risk is emotionally felt to be very great.

It is not going too far to say that the potential of mines excites a different sort of fear than ordinary weapons. Vice Adm. Friedrich Ruge puts his finger on this source of fear when he comments,

> The mine is the only weapon of naval warfare that is to some extent capable of altering geographical circumstances by making certain areas unpassable to ships. Thus an area which has been declared dangerous because of the use of mines is usually treated with great respect and is avoided as though it were land.[8]

It is also true that mines have *not* been used on numerous occasions because of the political and emotional impact their use would entail. The rules of the game in Vietnam are so strange it is not easy to say much about it, but it is probably fair to say that political considerations have strongly guided military actions, including the use and nonuse of mines.

Mines possess a number of unique qualities as weapons which are significant in any consideration of how they might be used strategically.

Mines are versatile; they can do direct damage to military logistic units, but they can also attack broad facets of the enemy's economy. Because ships typically carry a large bulk of goods, they are much more vulnerable to

attack than other modes of transport, especially on land. Mines can destroy and disrupt the enemy's merchant marine. They can increase the damage inflicted by other weapon systems by channeling traffic into positions favorable for attack. They can saturate ports, disrupt storage and loading as well as shore-based transport, and force diversion of traffic to decrease or even stop cargo flow. They have deterrent effects which weigh heavily in the political and psychological realms.

Mines are waiting weapons. The target must come to the mine. While this might at first be thought a disadvantage, it actually has a number of positive attributes. The mine maintains vigilance, possibly over a long period, without continued commitment of forces. The initiative or aggression must come from the enemy. A direct face-to-face confrontation can be avoided.

Mines usually are invisible weapons. If mines are laid surreptitiously, they can inflict maximum damage because of surprise. If they are announced, the psychological impact is maximized because of the ignorance of the size and nature of the threat.

Mines are selective weapons. Few other weapons can be made to select a very specific size or class of target or be selective in depth or range—clearly mines are vastly more selective than bombs.

Mines are flexible in duration and times of activeness.

Mines are ideally suited to providing graduated response in intensity, area, and time of attack. The minimum response required to attain a military goal can be chosen.

Mines change the geography of the battlefield.

Conclusions. Mining strategy and its planning must be started in advance—it is not adequate to wait until later to decide that mining might be useful. The amount of logistic preparation is too great. This mistake was made by the United States in WW I and WW II and again—with respect to countermeasures—in the Korean war.

Offensive mining should be considered a complementary effort, not a competitor, to other forms of attack systems—submarine torpedoing, aircraft bombing, or whatever modern technique may be employed. Mining should be assessed on a cost-effectiveness basis, as with any other system, but in doing so it is necessary to be both honest and realistic about the assumptions put into the calculation. When mining is used, planners should endeavor to coordinate their mining effort with other modes of attack to gain maximum effectiveness.

Mine warfare has always been considered a contest between the mine designers on the one hand and the countermeasures experts on the other. Experience indicates, however, that mines can be made so difficult to sweep or hunt that practical countermeasures may take some time to develop, thereby assuring that the opponent will have suffered time-consuming delay and attrition of his valuable resources.

Since a mine campaign is closely related to the entire war strategy, the first task at hand is to convince strategists and tacticians that mines have any role at all to play in a modern conflict. Mine technology, to a greater degree than that of any other weapons system, exponentially decays after a conflict has been finished. Consequently, the planners of the current generation:

- assume mines are available and ready to use if they should want them, when in fact they are not,
- know nothing about how to use them and assume they can be employed only in long, drawn-out major strategic standoffs, when exactly the opposite should be true,
- fail to realize that mines are specialized weapons with requirements which demand training and preparation to use them advantageously.

Minelaying, as a general rule, should commence with a large initial attack—hence the need for advance preparation— and be continued by frequent moderate-sized attacks rather than occasional large-scale attacks. Minelaying should be so dispersed as to put the maximum burden on the enemy's mine clearance forces.

Much of the value of a new weapon—e.g., a new firing mechanism—lies in its unexpected introduction and large-scale use before the enemy can develop countermeasures or adopt alternative courses of action.

One must also realize that there are values other than sinking ships that the miner desires and with which he is concerned because they redound to the benefit of the minelaying side:

- sinking ships is fine, but damaging a ship may be better—forcing the enemy to expend men and materiel on repairing damaged ships is advantageous;
- forcing the enemy to engage in mine countermeasures uses up men and resources at little cost to the miner;
- delay of shipping and disruptions of cargo handling at ports on both ends of a supply line are valuable byproducts of mining even if no ship is sunk;
- demoralization of both ship and shore crews is also a valuable byproduct; if the crew can be prodded to jump ship, so much the better.

Simplification of mine preparation in the field would make the mine a much more useful weapon as would relaxing some of the earlier strictures which I have noted above.

Every effort should be made to accumulate intelligence information on how and where best to use mines before and during hostilities. An equal and perhaps even greater effort should be made to determine the effects of mines on the enemy's war effort while they are being used as well as after the end of hostilities. One needs to receive feedback on the effects of mine weapon systems as quickly as possible if the minelayer is to get credit for what he has accomplished in his effort and if mines are to be credited with what they have done; otherwise, cost effectiveness will not be assessed correctly, thus reducing the chances of their intelligent and effective use.

The possible future use of mines in affecting and possibly settling international disputes should not be overlooked. Mines can be dropped so as to produce a blockade without actually resulting in direct harm or bloodshed to the local populace. The economic effects of such blockade might well assist the settlement of disputes without actual combat. It should be noted, however, that one must maintain a cadre of trained officers and men if one desires to have the option of a mine campaign open at any time to deal with international disputes.

In using mines we have erred in thinking of them as only long-term attrition weapons instead of using them as tactical weapons. We have failed to use them for their psychological and political effects by insisting that only a ship sunk is a valid test of whether the mine has accomplished its mission.

We have not devised a sufficiently evangelical approach to the conversion of true nonbelievers in that we have not convincingly shown that mines are important parts of overall oceanic and riverine naval strategy. We have not recognized or, more properly, minefield planners have not properly recognized the strategic character of ships and men themselves, but rather have preferred to consider such products as petroleum or platinum as the ultimate targets of mine warfare.

Many persons in the position to make decisions of military importance do not understand the characteristics of mine warfare or its underlying principles, so the potential of the minefield as a military weapon system is not well appreciated. Why does this situation exist?

• Military people are vehicle oriented, not weapon oriented. It is the Polaris submarine that claims the allegiance, not the Polaris rocket. Mines have the disadvantage of being even less dependent on a particular vehicular delivery sytem than are most other weapons.

• Mines lack bang appeal. The layer seldom gets to see one go off, and, as a consequence, his battle ribbons record few or no sinkings compared to the usual aviator, say, who gets to drop a bomb.

• Mines have commonly been the chosen weapon of inferior nations because of their cost effectiveness. This leaves the stigma that somehow it is beneath the dignity of the great nation to use such a weapon. There is the feeling, expressed ever since the time of Bushnell and Fulton, that the mine is somehow an ungentlemanly weapon.

• Mine service is often thought not to contribute to professional advancement.

• The mine is a basic and ancient weapon, one for which it is not easy to devise novel innovations or arrive at a breakthrough.

In conclusion, it can be fairly said that the military has failed historically to appreciate the significant role the mine is capable of playing in naval warfare and continues to do so for a variety of reasons. It is only by dispassionate critical analysis of past successes and failures that we can hope to overcome the traditional prejudices against this useful weapon.

BIOGRAPHIC SUMMARY

Professor Andrew Patterson, Jr., did both his undergraduate and graduate work at the University of Texas, gaining his Ph.D. there in 1942. He has been actively associated with the Harvard Underwater Sound Laboratory (1943-1945), the U.S. Navy Underwater Sound Laboratory as a physicist and research consultant (1945-1951), and served as the Director of the Office of Naval Research at the Edwards St. Laboratory, Yale University (1951-1956). Professor Patterson was the Chairman of the Mine Advisory Committee, National Academy of Sciences of the National Research Council for 1958-1962. Since 1962 he has served as a consultant to the Mine Advisory Committee and presently is Professor of Chemistry, Yale University.

FOOTNOTES

1. Robert Fulton, *Torpedo War and Submarine Explosions* (New York: Elliot, 1810). (Fulton had the book privately published.)
2. U.S. Naval Material Command, *The Offensive Mine Laying Campaign Against Japan*, NAVMAT P-9810 (Washington: 1969), p. 25.
3. Paul D. Bunker, "The Mine Defense of Harbors: Its History, Principles, Relation to Other Elements of Defense, and Tactical Employment," *Journal of U.S. Artillery* (Fort Monroe, Va.: Coast Artillery School Press, 1914), v. 41, p. 129-170.
4. *Ibid.*, p. 136.
5. Fulton.
6. U.S. Naval Material Command, p. 19.
7. Arnold S. Lott, *Most Dangerous Sea* (Annapolis, Md.: U.S. Naval Institute, 1959), p. 11.
8. Friedrich Ruge, *Sea Warfare 1939-1945: a German Viewpoint*, trans. M.G. Saunders (London: Cassell, 1957), p. 13.

Insurgency is either endemic or epidemic in the world today and will continue into the foreseeable future—certainly until some new form of stability is reached or man no longer inhabits the planet. Vital to insurgent movements is leadership and organization. An insurgency is no place for part-time amateurs or halfhearted philosophers. The leader must have only one goal in mind—power! If diverted from this objective, he will be liquidated, evicted, or his movement is doomed to failure.

INSURGENCY:
Origins and the Nature of the Beast

A lecture delivered at the
School of Naval Command and Staff
at the Naval War College
by
Professor Lyman B. Kirkpatrick

There was a time in Washington during the Kennedy administration when insurgency or counterinsurgency became a more popular form of study and interest than perhaps even some of the more familiar indoor sports. However, as I am sure Colonel Long made clear in his earlier discussion, nothing is really new. There has been insurgency throughout the history of man ever since the cavemen started to band together and beat each other over the head with clubs. Once any established form of authority was created, then insurgency, from a point of view of violence, was usually the opposition to that authority. Although I have dealt with it over so many years,* I still felt it useful to go back and make sure I was really familiar with what the term meant. The dictionary defines insurgency as, "rebellion without a revolutionary government"—the key there, of course, is "government"—"insurrection against an existing government by a group not recognized as having the status of belligerents." "Insurgent: a person who rises in forceful opposition to lawful authority, especially one who engages in armed resistance to a government or to the execution of its laws; rebel." An insurgency, if you go back to the derivation of the word, is to "rise up again."

*The author was the seventh officer of the Office of Strategic Service (OSS) to be ordered to London in 1942. He was the OSS Liaison Officer to the French Intelligence Service, the Norwegian Intelligence Service, and several others during World War II.

Now, of course, under these rather narrow definitions the French resistance against the German occupation during World War II would be excluded because the French resistance, at least in its later stages, was representative of the exiled government. Another example of World War II are the Yugoslavs. I certainly would classify their actions in the area of insurgency, acknowledging that General Mihajlovich was Defense Minister of the Government in exile in London and Cairo, and Marshal Tito eventually developed his own government in embattled Yugoslavia in 1943. Therefore, I am inclined to reject the narrower type of definition and simply classify insurgency as armed action against established authority.

Recently the *American Political Science Review* requested my opinion on an article on insurgency, in which case the author remained anonymous. The author was easily identifiable as a member of the Polish Home Army in World War II, an army that had a most unhappy fate. The Russians urged it to rise up on 30 June 1944; it did, and for 68 days it fought the Germans with a loss of 250,000 men, precisely what the Russians wanted. Nevertheless, this gentleman's experience shines through, and he did write a rather commendable article entitled "Internal Organizational Problems, Violent Political Movements Leading to Foreign Involvements." In this article the author states that there have been 400 episodes of insurgency in the past 12 years, episodes crossing national boundaries, involving 50 or more participants. I am willing to accept that, and I am inclined to think that may be a rather conservative figure. He makes the point that there are at the moment 93 extralegal movements in some 70 different countries.

I gather from some of the commentary that I heard from students at the college that there exists a degree of pessimism about the future of the world. I think I would say this to you: insurgency per se is either endemic or epidemic in the world today and, in my opinion, will continue to be so for the foreseeable future—certainly for the rest of this century and perhaps on indefinitely until either a form of stability is reached or we decide to remove homo sapiens from this particular planet. Either, I think, is a distinct possibility. The point I would like to make is that you cannot eliminate or cannot have any hope to eliminate forms of insurgency from Africa which went from a continent of colonies to one of independent nations in the decade of the 1960's. I speak particularly of the three Portuguese colonies of Angola, Mozambique, and Portuguese Guinea. All three have very sizable insurgent movements which are occupying a great portion of the national resources of a very poor country like Portugal. But even the new nations have had, and will have, incidents of insurgency. In any event, let me simply suggest to you that in areas like Africa, perhaps even in a more advanced continent such as Latin America, certainly in many parts of Asia, and perhaps even in the more distinguished and developed countries—and I am not quite sure either of those adjectives are correct—we will see forms of insurgency. I do not believe that anybody can say that we do not have insurgency in the United States at the present time in the form of the Black Panthers or the Weathermen or, to put it on the other extreme of the political spectrum, potentially the Minutemen. They are not active, but the potential is there. Well, with this as a form of preamble, let me go on to describe the nature of insurgency.

First, an insurgency must have an objective or goal to have any potency whatsoever. It must have some political base or goal in order to exist, or it will not attract any group of followers or any loyalty on the part of the more sizable mass of the population. It must have a secure geographical base or bases

from which to operate. It must have leadership, a recognized and respected leader, otherwise it is going to devolve into sporadic and individual acts of terrorism which sooner or later will sputter out and fade because of the absence of coherence. It must have personnel. It must have a hard-core cadre of full-time revolutionaries. Now if you read Lenin you will find that this is the one thing he hammered on most persistently—a full-time cadre of hard-core personnel dedicated to the revolution. It must have supplies, either access to supplies, which is not difficult in a free society like ours, or some way of getting arms, ammunition, explosives, medical supplies, communications, and food. It must have finance. Insurgent movements cannot exist without money. French authorities make the statement that the French resistance cost 5 billion francs, and I think this is, if anything, conservative. Finally, it must have the capacity for secrecy to survive. This is something that is not easily acquired; it is something which people usually are not born with; it is almost invariably acquired by experience, most frequently by experience, in which only the survivors have the clandestine technique. Now let us go on to expand on these particular natures of insurgency.

The base. I put this first because I think it is absolutely essential. There must be a base for command, communications, and finance—the three key criteria. Operating bases are required for supplies. One cannot mount an insurgency unless you have arms, ammunition, explosives, and medical supplies, and these must be cached at a base or bases.

The base provides a place where the leader can be seen. The leader obviously does not live at the base; at least he does not live there for very long if he is wise. He will visit the base or bases and will see the troops in the field—the men who are taking the action and the women who are taking the action. The base is important because it acts as a symbol for the insurgency. It may have to be moved frequently; it may be destroyed by opposition; but there must be a base.

This base will provide communications. In the modern day of electronics it is all very easy to say that the insurgents will have high-speed transmitters and receivers, and with just one quick squeak on the air transmit a hundred-word message. This, of course, is a possibility, but usually not a probability. Modern-day insurgency—perhaps with the exception of some highly sophisticated insurgent movements—will communicate by the human courier, generally by word of mouth rather than by encrypted or encoded messages, and for several reasons. The human courier usually is more reliable; secondly, he is more accurate; thirdly, he is more likely to get the message through, under existing conditions, than by more sophisticated methods.

Finance I have already touched on, but I would like to expand on it to simply put before you the proposition that the activities of the Black Panthers or the Weathermen in the United States could not exist unless there was considerable finance somewhere. The coordination of the Weathermen effort, which I have watched by viewing one campus, is one that requires a great deal of travel—they get around a great deal. They obviously have funds for publication. The number of explosions that we have witnessed indicates finance of some degree—someone is buying the dynamite.

Finance is important because it pays for bribery, which is a very effective way of getting prisoners out of jail or of having authorities look aside. It helps to take care of the widows and the families of those that are lost, and it secures medical treatment from those in the profession that are willing to treat wounds without reporting to the police authorities. So money is very important.

I am rather interested—perhaps this is a parochial interest—but I am interested that so many of the authorities on insurgency neglect to mention or merely give a passing sentence to intelligence. I would suggest to you that intelligence is essential to the survival of an insurgent movement. Amateur efforts at gathering information are no substitute for the professional approach. Hard intelligence is required for planning operations. If one does not know where the guards and the areas of control exist, how could one expect to get into secure areas to commit sabotage or political assassination or whatever other the objective might be. Also, intelligence is absolutely essential to protect your own operation. If you examine the takeovers of the Eastern European governments, you will see the first targets of the Communists were the Ministry of Interior and the Armed Forces to gain control of both information and intelligence as well as power.

Let us next examine the nature of leadership in an insurgent movement. Whether the insurgent movements call themselves democratic in the Western sense or Communist in the socialist sense, insurgency is no place for the election of leaders. A leader acquires the leadership role by positively assuming it. He may be elected originally, but sooner or later that democratic process is quickly forgotten, if he is to survive, because leadership of insurgency must be completely and absolutely ruthless. Examine the life of Lenin. He had a great deal of consideration and sympathy for the people that worked with him which, I think, is an essential characteristic of a good leader. He looked after their families and was interested in their health, their well-being, et cetera, but if they transgressed or violated any of the orders, he was the first one to liquidate them without the slightest remorse. Now the leader has to be respected; sooner or later he will be shot if he is not, probably from behind. He has to have a certain degree of popularity. He has to be chosen by the most powerful elements, or sooner or later he will be eliminated by those elements that are powerful and not completely in accord with his leadership. He occasionally will be selected by an outside power.

If I may refer back to the article on the Polish Home Army—the author made no reference whatsoever to the leaders being sent in to the Polish Home Army from both London and Moscow. Nevertheless they were parachuted in, and the fight for leadership was bloody. Denouncements were made by one side or the other; the result was that the Gestapo was able to act as a very good executioner of Polish leadership.

The leader must have only one goal in mind if insurgency is to succeed and that is to acquire power. Nothing whatsoever can stand in the way of acquisition of power. If the leader lets anything stand in the way or is diverted from that objective, then the odds are that either he will fail, be liquidated or evicted, or the insurgency will fail. It is no place for modesty or humility on the part of the leader. If he is a man who knows anything about insurgency or guerrilla warfare, he will put his personal safety first and foremost because he will regard himself as indispensable to the success of the insurgency, and he will allow his true identity to be known to the fewest possible individuals. I suppose, from a theoretical point of view, the best leader is the one whose true identity is known by no one. For once his identity becomes known, even to a small cadre of individuals, the odds increase proportionately of it ultimately being known to the established authorities and an intensive manhunt would result. The best way to fight insurgency is to destroy its leadership. Once its leadership is destroyed, it is a headless octopus that thrashes around and ultimately dies.

The leader must have clandestine and

military ability. Clandestine perhaps first, but military ability certainly is essential. Many of the leaders of the French resistance, incidentally, had no military background. Of course, some were French Army. Quite a few, indeed, were French laborers, trade union members who fled to the countryside to avoid forced labor in Germany. But they acquired military capacity, and they perhaps had some technical skills which were most useful.

The leader must produce results or lose following. An insurgent movement that accomplishes nothing, sooner or later dwindles and dies away. But every now and then, perhaps more frequently, there has to be some form of a violent action with established results—the killing of one of the leaders of the established force, the cutting of communications, the destruction of a supply base, the ambush of a military convoy, any of these types of action in order to continue control and to build up the following. The leader cannot be absent from these actions. He must establish his own record of personal courage in order to get the following of the rank and file.

Opposition must be ruthlessly eliminated within the insurgency. There must be a well-developed—particularly as it gets larger—internal counterespionage and counterintelligence system because, again, if the established authorities are going to eliminate the insurgency, they must penetrate it. The authorities must get their own sources inside if they are to have any success in coping with the insurgency. The insurgents must recognize this, and any suspected penetration, opposition, or disloyal element must be eliminated absolutely ruthlessly.

I remember visiting the Philippines in 1964 and having several lengthy sessions with the then Minister of Defense of the Philippines, who I had come to know during an earlier visit of his to Washington. We discussed his role as a guerrilla leader in the Philippines during the Second World War, and I asked him the question, "Did you eliminate any from your group who perhaps were innocent?"

He said, "Oh yes, yes, we accepted that, that they would fall along with the guilty, but it was better to eliminate everybody we suspected rather than take a chance and having the unit destroyed."

What I have pictured is a modest capsule of insurgency leadership, and one could specify numerous contemporary examples—Fidel Castro with his charismatic appeal, his obvious personal bravery, and the ruthlessness that he has surrounding him. I would gather that his brother Raul and Che Guevara were perhaps even more ruthless than Fidel himself, but this was one of the characteristics of his survival.

An insurgent movement is no place for part-time amateurs or half-hearted philosophers. Its place is for the full-time hard cadre. It will use the part-time insurgent. This is very obvious in Vietnam and in many other places where there are those who will be called out to fight with the hard core. But I am addressing myself primarily in this discussion to the hard-core cadre of technicians-in-violence because that is what your insurgents are. They must be full time, dedicated, disciplined, brave, self-sacrificing. Their every movement must be dedicated to conspiracy. (I put a parentheses in here and simply say that I am talking about your hard-core Communist functionaries—the underground illegal apparatus—as distinguished from the civil bureaucrats which they have in the overt or legal parties.) The insurgent must eat, sleep, breathe, and make love clandestinely. Incidentally, I add the latter not for any salacious reason or to put a romantic aspect to it, but the number of insurgent movements that have been betrayed—betrayed in bed—is quite fantastic. And so the wise insurgent movement builds in its sex. And

incidentally, women are excellent in insurgency. This was demonstrated not just by Vilma Espin, now Raul Castro's wife, but by some of the magnificent women of the French resistance and other resistances.

Within an insurgent group you must have a great number of technicians-in-violence if you are going to mount an insnrgency of any degree of size or strength that has a capacity to overthrow the existing authority. The explosion in New York in which three of the Weathermen were killed is quite demonstrative of the fact that the handling of explosives is not really for amateurs, although amateurs do it all too frequently. The demolition experts are essential not only for creating the demolitions out of perhaps scarce material, but for knowledge of how to engage in truly good sabotage. The need for ordnance experts is fairly obvious. You have got to have yonr skilled killers and, incidentally, silent killing is not altogether a dead techniqne and is occasionally essential in an insurgency.

Medical services are also necessary—read Che Guevara's diary about the experiences in Bolivia when sickness and wounded personnel perhaps helped drag down that abortive insnrgent expedition.

Food is essential; insnrgents have to eat, and nothing can destroy morale faster than hungry people. An urban-based guerrilla or insurgent activity, food is nsually quite easy to obtain through the local distribution system. In rural areas you are almost totally dependent on the natives nnless you want to pillage, and, of course, this can have counterproductive activities. I recall in March 1961 sitting in the headquarters of the Central Intelligence Agency with several Cuban experts disenssing the then being mounted Bay of Pigs operation. I was not privy to all the details of the Bay of Pigs operation—incidentally, the present Director of Central Intelligence was not either—and we were having described to us some of the efforts to build up the resistance inside Cuba. The statement was made that a guerrilla unit wbich had been put into the Escambray Mountain area, the original site for the landing, was having difficulty getting food. The reaction was simply one of cold alarm because if the guerrilla unit is having difficulty feeding itself, then it means either the natives are hostile or they are so afraid of the security forces they dare not feed any guerrillas.

I believe that I have amply disenssed the essential services required of an insurgency; now I would like to focus on the resistance of the estahlished forces. I made the point that this conditions the natnre of your insurgency. If the established forces choose to ignore an insurgency, the leader of the insurgents has only one alternative—be must intensify activity because being ignored results in loss of prestige and loss of the rank and file. No one pays any attention to their organization, the established authority takes on an image of confidence, and the insurgent movement never becomes viable.

The second aspect, of course, is measure-for-measure retaliation on the part of the established authority. This type of counteraction generally resnlts in increased empathy for the insurgents. More rank and file affiliate themselves with the movement because the retaliation generally develops sympathy, perhaps even understanding, depending on how well the insurgents can use their objectives to convince the people that they are doing something for them.

A third technique on the part of the established authority is ampntation. Try to find the insurgents, try to isolate them, then try to destroy them. The British nsed this in Malaya in the 12-year insnrgent war there from 1948 to 1960. They isolated the insurgents by moving the population out of the insurgent areas and they gradually rolled up the terrorists. The established anthori-

ties can also use terror, not just going after the insurgents, but creating terror in the ranks of the population. This certainly has an effect and generally tends to increase the strength of the insurgency. Then, of course, there is the extreme of planned genocide. Simply destroying all in order to stamp out the insurgency. This, naturally, would have the tendency of developing a rather universal base for the insurgency.

Now let me, in concluding about the nature of insurgency, just mention a word about secrecy. As I said, it is not easy to acquire. Some ethnic groups are rather more garrulous than others. I would simply have to report to you that prior to the Bay of Pigs landing, if one traveled around the Spanish speaking section of Miami, you could acquire a great deal of information about what was going on: which Cubans recently left Miami to go to Guatemala; who was flying the B-26's; where the landings were to be made. There was a great deal of talk among the Cuban exiles, but I am not singling them out necessarily for being too garrulous; most people are. However, in an insurgent movement any loose talk, lack of secrecy, or lack of clandestinity is almost fatal. The identity of the leaders and of all the hard-cadre personnel is something that must be kept secret in order to protect the insurgents. It is absolutely essential that the secrecy of the location of meeting places, safehouses, supplies, resupply routes, and courier routes be maintained. And incidentally, there should be full recognition here that any personnel captured are going to tell what they know. There are very few people that are built with the iron will, determination, and the high-pain plateau that is required for resisting interrogation when the interrogator is determined to gain the desired information. The operation techniques to be used and the personnel to be employed must be carefully protected. These are the things that the established forces are going to try to find out. Then, of course, I leave the last but absolutely the most essential, the intentions of the group. If anybody besides the leader knows this, he is perhaps not a very wise leader. He should announce only at the very last minute the time and place of a raid, assassination, et cetera.

Now let us turn, in the last several minutes, to origins of insurgency: what creates an insurgent movement? The common cliche one reads in most of the literature—most particularly what I call the romanticized stories of insurgency that appear in the popular literature, the popular press, and so on—is that insurgency results from poverty, injustice, inequality, et cetera. I would not want to say to you that it does not result from that, but I would want to say to you that that is only one of the many reasons for insurgency. I would further suggest that more frequently insurgency comes from those outside of power wishing to obtain power, using the technique of the violent insurgency rather than established parliamentary or legitimate political methods. If the leader of an insurgent group is not aware that the acquisition of power is absolutely vital in order to succeed, that he has to overthrow the established power, then I would again suggest it would simply not take place.

There can be insurgent movements that will result from the right combination of people and circumstances, and perhaps the Hungarian revolt of 1956 was the combination of this. I am not at all sure the Hungarian people were either organized for a revolt or that there was an insurgent movement, either inside or outside of their Communist Party. I think it was more of a spontaneous mob reaction that resulted in an insurgency movement which had a short-lived but perhaps glorious existence. Now let us examine just briefly the origins of some of the modern insurgencies that we have facing us.

Let us take our own Black Panther

movement in the United States, and incidentally may I commend to your attention an article in the 1 November 1970 *New York Times* Magazine section entitled "Our Other Man in Algiers" by Sanche de Gramont. It is an article about Eldridge Cleaver and the Black Panther exile headquarters in Algiers called the International Division of the Black Panthers. The Black Panthers are obviously an offspring of the civil rights movement, blacks who feel that they will never be able to obtain justice unless they destroy the existing structure of the United States. Incidentally, let me say that the Black Panthers claim not to be racists in their approach; in fact, Cleaver made the statement in an interview with de Gramont that they are now aligned with the peace and freedom party because they recognize that their previous approach was racial and not necessarily going to be successful. The multiracial Weathermen, of course, are the epitome of the young revolutionary; again, destroy the system because they believe they can never peacefully achieve any equality of their objectives in the society which they consider to be evil. The Quebec separatists, of whom we hear a great deal now, is an insurgency movement of some consequence. The objective, of course, is to take Quebec out of Canada and to create a separate nation.

I could go on with a very long list of insurgent movements. The figure that I quoted at the start of there being 93 insurgent movements in 70 countries is perhaps even modest. They seem to be increasing at a very rapid rate, and increasing with aid and assistance.

I would like to conclude by directing your attention to what I think is a very important aspect for your consideration in your year in the Command and Staff School of the War College. What is the role of the Soviet Union in modern insurgency? How many of the insurgencies are Marxist in nature? And exactly what is the impact and what does this mean? I would say there is a strong Marxist element in most insurgent movements, but this does not necessarily imply that they are either Russian run or Russian controlled. I am

BIOGRAPHIC SUMMARY

Lyman B. Kirkpatrick, Jr., was born in Rochester, N.Y., educated in public schools there and at Deerfield Academy, Deerfield, Mass., and graduated from the Woodrow Wilson School of Public and International Affairs of Princeton University in 1938.

After graduation he worked for the U.S. News Publishing Corporation in Washington, D.C., as an editor and personnel director. In 1942 he joined the Office of Strategic Services and served in Europe with that organization and as a military intelligence officer on the staff of Gen. Omar Bradley's 12th U.S. Army Group where he was the G-2 briefing officer. He left the military service with the rank of major, and for his service received the Legion of Merit, Bronze Star, French and Belgian Croix de Guerre, and the European Theater Ribbon with five battle stars.

After the war he returned to the U.S. News as an editor of *World Report Magazine*. In 1947 he went to work for the Central Intelligence Agency where he served in a variety of positions, including Division Chief, Assistant to the Director, Assistant Director, Inspector General, and from 1962 to 1965 was Executive Director-Comptroller. In September 1965 he resigned from CIA to accept an appointment on the faculty of Brown University in Providence, R.I., as Professor of Political Science and University Professor.

In 1960 he received the National Civil Service League annual award as one of the 10 outstanding career employees of the Federal Government. In 1964 he received the President's Award for Distinguished Service, the highest award that can be given a civilian in the Federal Service.

He is the author of *The Real CIA*, published by Macmillan in January 1968, and *Captains without Eyes*, published by Macmillan in 1969, of numerous articles, and has contributed to the *Encyclopaedia Britannica Yearbook*.

quite convinced—and I spend a great deal of my time simply studying Marxism—that there are hundreds of millions of Marxists in the world today, but very few Marxists agree as to what the ultimate objective should be of Marxism or Marxism-Leninism. The role of the Soviet Union, I think, is the obvious role that Russia has played for years, that is the role that they will assist the insurgents but they will be equally rapid in casting them adrift. The Spanish Civil War is a brilliant example of the Russians sending in assistance and when Spanish Loyalists started to become a liability to Russian foreign policy, they were cut off. So I think you can simply analyze the fact that the Russians will support insurgents if they think there is a possibility of encouraging the creation of a Marxist-Leninist entity that could acquire power.

Now the origins of insurgency are not necessarily eradicable. We are going to have poverty, we are going to have inequality, we are going to have injustice for the foreseeable future. Human nature simply does not change rapidly. These things are going to continue to exist, but their existence does not necessarily mean that an insurgent movement will be created or will develop in that particular area. The implication is, in fact the conclusion I would reach is that, yes, we are going to have many of these insurgencies for the foreseeable future. As far as what one does about insurgency, first and foremost, understand it. What is the insurgency? Why does it exist? What is its potential? Where is it going? Secondly, maintain a very careful watch about it. If you do not have good intelligence on it, for heaven's sake, get good intelligence on it. And then finally, of course, from an American point of view, a very careful and high-level analysis of what its implications are as far as American foreign policy is concerned. If the implications are serious and consequential and it is a *vital* national interest, then take action.

Ψ

In a national insurrection the center of gravity to be destroyed lies in the person of the chief leader and in public opinion; against these points the blow must be directed.

Clausewitz: On War, 1832

Diplomacy of the early 1950's culminated in an agreement among the NATO allies that permitted a sovereign and rearmed West Germany to be integrated economically and militarily with the rest of Western Europe. It was the overcoming of historic distrust and rivalries among the European powers that has been crucial to the ultimate security and well-being of all Europe. In retrospect, it appears that the rearmament of the Federal Republic of Germany has been the linchpin in the political evolution of postwar Europe. The alternative might have found an isolated Germany turning to the Soviet bloc.

THE REARMING OF GERMANY 1950-1954: A LINCHPIN IN THE POLITICAL EVOLUTION OF EUROPE

A research paper prepared by

Lieutenant Commander Benjamin M. Simpson, III, U.S. Navy

Ten years to the day after the German surrender at Rheims, General Rommel's chief of staff stood beside the Supreme Allied Commander, Europe, as the German flag was raised at Allied Headquarters. Germany, or at least the western part of it, had made the transition from vanquished enemy to rearmed ally.

The arming of the Federal Republic of Germany was not an isolated event. It occurred in a context of cold war politics and military necessity, against a background of the Marshall plan, the North Atlantic Treaty, and positive moves toward European integration. It closed an era which had started with the Allies and the Soviet Union triumphant at the collapse of Nazi Germany. The arming of the Federal Republic represented the establishment of an equilibrium of sorts in Europe.

Twenty-five years ago Germany ceased to exist. In 1945 the territory of the Third Reich was conquered and occupied by the victorious Allies, who then instituted military governments. At the Potsdam Conference, East Prussia was divided between Poland and the Soviet Union, and the provinces of Pomerania and Silesia east of the Oder and Neisse Rivers also were given to Poland for "administration."

Ten years later, in 1955, Germany remained divided, but German military forces, wearing the uniform of the Federal Republic of Germany, were admitted to NATO pursuant to a treaty which provided specifically for the rearmament of the Federal Republic. By adopting a policy of rearmament, Chancellor Konrad Adenauer sought to weld the Federal Republic to Western Europe, even at the price of postponing the reunification of all of Germany, which could only come about with the specific approval of the Soviet Union.

German rearmament is a condition of fact in any general European settlement. It plays a major role in the strategic

considerations of the Atlantic Powers. German rearmament can best be described by two crucial facts: there has been no European war, and Germany has not been unified. While all men can rejoice at the former, opinion is somewhat less unanimous in regard to the latter. This division remains a sore point for Germany and a potential danger to the remainder of Europe, as well as to the United States and the Soviet Union.

In September 1955, only 4 months after the Federal Republic entered NATO, the Soviet Union established diplomatic relations with the Bonn Government. Fifteen years later, on 11 August 1970, the Soviet Union and the Federal Republic concluded a nonaggression treaty. They not only renounced the use of force for the settlement of disputes, but significantly, the Federal Republic agreed to the inviolability of the European frontiers as they existed on that date. This meant the Federal Republic accepted the Oder-Neisse line and in effect renounced claims to the eastern territories lost in 1945.

The stabilization of Western Europe, including the phenomenal domestic success of the Federal Republic, has been accompanied by a containment of Soviet military power to Eastern Europe, outright violent rebellion against that power in some cases, and more subtle exercises of independence in others. Today, communism in Europe is no longer the monolith it once was. However, many of the fundamental problems connected with the projection of Soviet national power remain.[1] Whether there is a causal connection between the events antecedent to the arming of the Federal Republic and subsequent developments remains to be seen.

Fifteen years do not provide a vantage point for a definitive historical perspective (if one is ever possible), but it does provide a sufficiently good point from which to look back and analyze some of the currents and elements which led to the phenomenon of the Western Allies arming their late enemy in defense against their former Soviet ally.

Background. Following World War II, U.S. policy toward Europe manifested itself in many ways. Perhaps the most obvious example is the Marshall plan. The premise of this policy was stated by Secretary of State Marshall, who posited a faith in the vigor of Western civilization to rise above the destructive effects of war and to restore a healthy society.[2] The Communists openly predicted that such a restoration would not take place.

In 1949 Secretary of State Acheson noted how closely interwoven were U.S. policies toward Germany and toward Europe. He saw clearly that the problems of Western Europe were not compartmented and that Germany must share the obligations as well as the benefits of the structure started by the free people of Europe.[3]

European security could be insured only if there were set in motion in Germany those forces which would create a governmental system dedicated to upholding the basic human freedoms through democratic processes. This assumption had been basic to U.S. policy in Germany since the collapse of the Nazi state in 1945. Acheson urged a radically new reciprocal approach which, in effect, meant all nations in Europe, Germany included, must come to realize that the benefits to be derived from community efforts would exceed by far those to be achieved by any individual efforts. He alluded to the paradox that the fruits of sovereignty and independence could be best achieved by subordinating them to measures of European integration, although he did not use that term.

The theme frequently heard was one of American approbation of a European community as the end result of the American European efforts. However,

the long-range purposes or results of such a consummation were discussed less frequently. A Europe composed of states closely cooperating in political, social, and economic matters would no longer be either dependent on the United States or fearful of attack from the East. Such a Europe would be a stabilizing force with great influence in world affairs.

The Petersberg Agreement. From the conclusion of hostilities in 1945 until the promulgation of the Occupation Statute in September 1949, Germany was governed by military governors in their respective zones of occupation. When it became obvious that inter-Allied cooperation in regard to the occupation of Germany had become a chimera, the three Western Allies coordinated their policies and cooperated extensively among the three zones. The end result was the Occupation Statute, which replaced the military governors by an Allied High Commission, clothed with certain limited and defined powers. It also granted to the new Federal Republic of Germany a certain degree of internal autonomy and responsibility. This step was highly significant in that it heralded the return of a German Government at least partially responsible for the fate and interests of Germany, although the responsibility and powers of that Government were severely limited.

Against this background, Konrad Adenauer successfully negotiated the Petersberg Agreement of 1949 with the three Allied High Commissioners. The Germans sought to limit dismantling of the German industrial complex and to obtain a relaxation of restrictions on certain industries, particularly shipbuilding. The Allies were anxious to secure German participation in the Ruhr Authority.

The net result was an agreement that, to a great extent, curtailed industrial dismantling and permitted German shipbuilding (thereby creating employment in the Socialist strongholds of Hamburg and Bremen to the benefit of the Christian Democrats). The Allies sought and obtained German participation in the Ruhr Authority. In addition, the Federal Republic was permitted to establish consular offices abroad and to join international organizations, such as the World Bank and the International Monetary Fund. Germany was also free to join the Council of Europe. At the time, all German political parties agreed that the Federal Republic should remain demilitarized.

The significance of the Petersberg Agreement was precisely what Adenauer intended: a turning point in the relations of the Federal Republic with the occupying powers. It marked not only the return of a responsible government, capable and willing to negotiate for German interests, but also the emergence of the Federal Republic into the international community, although with powers less than those of a completely sovereign state. Part of the price was an agreement by the Federal Republic to remain unarmed.

One observer commented on Adenauer's policy and negotiating skill to the effect that Adenauer was able to strike a balance between German interests and those of the Western Powers and at the same time to shape events in a desired direction.[4]

In the months immediately following the Petersberg Agreement, John J. McCloy, the U.S. High Commissioner for Germany, clearly stated U.S. policy in a series of speeches and reports. The first objective was a reunification of all occupation zones of Germany on a democratic and federal basis. Of course, by this time the Russians had established a rival Communist regime in their zone of occupation, and any lingering hopes for early reunification were fast fading. McCloy precluded any arrangement whereby Germany might be united and Communist.[5]

A leading principle of U.S. policy in Germany was that, when ready, Germany should share in the benefits and assume the obligations of participation in the economy of free Europe. American policy in regard to Germany neatly meshed with her policy toward Europe, to the extent that Germany should play an active part in the economic and political organization of Europe. In other words, German security would be protected by German participation in a closely knit Western European community.

In April 1950 McCloy saw that the fate of Germany was closely tied to that of Europe. There could be no solution to the German problem without fitting it into the larger context of a united Europe. Union was the best solution for Europe's economic problems, and such a union would go far in solving the political problem of restraining a revival of pernicious German nationalism. Perhaps more important yet, he pointed out the psychological benefits to be gained by widening horizons and focusing ideals for the war-weary and disillusioned people.[6]

In short, U.S. policy by May of 1950 was definitely committed to a healthy Germany in a healthy Europe, on the assumption that the two were mutually dependent.

The Schuman Plan. On 9 May 1950, the French Foreign Minister, Robert Schuman, publicly proposed the pooling of both the French and the German steel and coal industries under a common higher authority, within the framework of an organization open to the participation of other nations.

The significance of the Schuman plan was not lost upon Adenauer. It was not only designed to meet very real economic needs in industries basic to the economies of both France and Germany, but also it provided a revolutionary solution to a problem which had divided France and Germany so often in the past. This solution would tend to draw Germany into Europe and to further the ideals held by both Schuman and Adenauer of a larger European community as opposed to separate European nations.

From an American standpoint, the Schuman plan was viewed as a European initiative to solve a European problem. It dovetailed with U.S. policy toward Germany and showed one way of eventual German integration into Western Europe.

On the eve of Korea, U.S. policy in Germany was essentially concerned with politics and economics. Military considerations were limited to stationing Allied forces in Germany as occupying troops. As late as 5 June 1950, Secretary of State Acheson denied before the House Armed Services Committee any intention of rearming the Federal Republic.[7]

Korea. The attack by the Communist North Koreans against the non-Communist Republic of South Korea was a profound shock to Europe and particularly to Germany. The parallel of a state divided into Communist and non-Communist portions, with the former attacking the latter, was obvious for all to see. The year before, in 1949, the Atlantic Powers had concluded the North Atlantic Treaty. This marked a radical change in American peacetime policy, which was motivated by the possibility of a Russian military move against Western Europe. Now, in many minds, this possibility had been raised to a probability. Even if the parallel were inaccurate, the weakness of Europe's defenses was a matter of grave concern to the West and particularly to the Federal Republic, which had no forces of its own and had to rely on occupation forces for external security.

Adenauer was particularly fearful of a situation arising in which Stalin would make the Grotewohl government of East Germany push the large and well-

armed People's Police into West Germany to "liberate" the Federal Republic while the West Germans looked on passively, partly because the invaders would be their own compatriots and partly because they had lost faith in the strength of the United States. In view of the threatening and bellicose statements coming from East Germany, Adenauer felt that the Government of the Federal Republic was shouldering an immense burden without the corresponding means of discharging its obligations. He requested the Western Powers to demonstrate their military strength more visibly, and he also requested permission to create a security force of the same strength and armament as the People's Police in East Germany.

At the end of August 1950, Adenauer sent a memorandum to the U.S. High Commissioner in Germany in which he reviewed the lack of security of the Federal Republic. He repeated the declared readiness of the Federal Republic to make a contribution of a German contingent to an international army in Western Europe, but he rejected the idea of a remilitarization of Germany by means of creating a separate German national army.[8]

Simultaneously with this memorandum, he sent a letter to the Allied High Commission with a request that the contents of the letter be submitted to the forthcoming Foreign Ministers Conference scheduled to meet in New York the next month, September 1950. Adenauer drew the political conclusion that a "reordering of relations" between the Federal Republic and the occupying powers was warranted. He pointed out that not only had the Federal Government consolidated its position at home, but also that it had sought by every possible step to integrate itself into Western Europe. It was, therefore, necessary to "place the relationship between Germany and the Allied Powers on a new basis." The legal state of war must be terminated, and continued occupation should be for purposes of "security against external danger." The Occupation Statute should be progressively replaced by a "system of treaties or contractual agreements."[9]

Foreign Ministers Conference 1950. Arming the Federal Republic was formally and seriously discussed for the first time at the September 1950 Foreign Ministers Conference in New York. Acheson notified the French and British Foreign Ministers on the eve of their departures for New York that he would raise the question of German rearmament. Apparently Acheson's late notification of his colleagues was not because he wished to avoid a background chorus of adverse comment, which might have been the case if the French and British Foreign Ministers had had time to do adequate staff work. It was because the U.S. position had not become firm until shortly before the convening of the conference.

The idea of arming the Federal Republic or, put another way, permitting that nation to make a contribution to the defense of Western Europe on a basis of equality with the other Western European nations originated in the Pentagon as a logical answer to both a military and a political necessity. As one observer has pointed out, "The closer Germany came to sovereignty and the greater the attention paid to the task of defending Western Europe, the more difficult it became to leave out of calculation the military potential of a major European nation."[10]

After Acheson had raised the question of arming the Federal Republic, only the French steadfastly refused to accept even the principle of German rearmament. French objections were based on the dangers to France of German arms. At the 1950 Foreign Ministers Conference, the United States, the United Kingdom, and France were able to agree only that the creation of a German national army, pure and simple

and free of all restrictions, "would not serve the best interests of Germany and Europe."[11]

Finally, the French yielded to the pleas of their allies and proposed in October 1950 the Pleven plan, or European Defense Community. In so doing, Rene Pleven injected an entirely new concept into the politics of Europe by agreeing to German rearmament within the context of a European army, not subordinate to any nation, but to a supranational defense minister. After extensive and intensive negotiations, the Pleven plan was embodied in a series of treaties and protocols which provided essentially for a European Defense Community (EDC), sovereignty for the Federal Republic of Germany, and an extension of the North Atlantic Treaty protection to the territory of the Federal Republic. The agreements were contingent upon each other to be effective. In other words, if any one failed of ratification, none would be effective.

All the elements embracing cold war strategy—European defense, European integration, and the future of Germany—were drawn into this maelstrom, which was not resolved until after the French National Assembly failed to ratify EDC in 1954. The 1954 Nine Power Conference in London then produced a substitute series of protocols which finally achieved ratification by the signatory states. To understand how arming the Federal Republic was the catalyst of this series of events, it is necessary to analyze the underlying problem and how it was met.

The Problem. Nearly 5 years elapsed from the first serious discussion of rearming the Federal Republic in September 1950 until the Germans were finally admitted to NATO in 1955. During that time the ambitious, if not revolutionary, scheme of a European Defense Community was proposed by the French, accepted by all European parties (except the British who declined to participate), and finally, not without irony, killed by the French National Assembly.

At the start the question of arms for the Federal Republic was a military problem born of necessity with very heavy political overtones. After the failure of the EDC, it became a political problem of the first magnitude. Although the emphasis shifted to the political aspects, many of the same considerations endured throughout the entire period. These considerations were the important ones and were of immediate concern.

Logically, the first question to arise was whether an active military ground defense was both feasible and desirable. Some concluded that since the task of stopping the Red army was so staggering, the West should rely on American nuclear weapons to protect Europe and on the political venture implied in the North Atlantic Treaty. They felt that since the Russians had not already overrun Western Europe, they probably would no do so.

Following the attack in Korea, whatever merits European neutrality, or even German neutrality, may have had were lost in a rising tide of anxiety over the deplorable state of Western European defenses. Not only were European defenses inadequate in themselves, but the United States was then committed to a sizable ground war, with sea and air support, in Korea. Considering the size of the U.S. forces in being after Louis Johnson's force reductions, the United States was doubly concerned with doing something to bolster European defenses without making a dent in the forces available for Korea.

An early and important step was the agreement to establish SHAPE. This step was significant, in a practical sense, because it provided for more efficient utilization of forces available through coordination, cooperation, and some degree of command integration. Also, with an American general at its head, it

symbolized a positive American commitment to the defense of Western Europe.

At this time American policy was based on the assumption that the security of the United States was indissolubly linked with that of Europe. The problem facing the United States was twofold: first, how to keep Western Europe out of the Soviet orbit; and second, how to defend Western Europe against Soviet attack. The first part of the problem was being met by the European Recovery Program, and the second part was under consideration. Some planners wanted a one-package deal in which the establishment of SHAPE and German armament would be a part. However, the United States finally adopted a position more in tune with political realities, and SHAPE was established while Acheson continued negotiations for German armament.

The decision to arm the Federal Republic was not as easy as it might seem today. The first question was whether the North Atlantic powers—and particularly the Europeans in the light of the U.S. commitment in Korea—could raise sufficient forces to meet a possible Soviet ground attack. The price might have been to jeopardize the European economic recovery already achieved and to bankrupt the European economies, thereby sowing the seeds of domestic discontent and providing the Communists with new opportunities for mischief in Western Europe.

Economic considerations were not limited solely to the effects of military expenditures. One British writer raised the question as to the ultimate effect of a NATO German Army on European integration, and he felt that such an effect would be adverse. However, he agreed that integration was a necessary step in a return to multilateral trade and expanding worldwide exchanges.[12]

Aside from the adverse economic effects of Europe defending herself without the aid of Germany, the obvious fact remained that Germany would be the frontline in a war with the Soviet Union. The possibility that the West might be forced to defend the Federal Republic against a "war of liberation" launched by the East Germans, while the West Germans looked on, was something to be avoided if at all possible.

Starting with the assumption that the means of defending Western Europe were inadequate, the solution was a choice between the Allies making a greater effort toward their own rearmament or finding some way of making a German contribution acceptable and possible. Military necessity demanded a choice, but only policy could make it.

At the time the United States, the United Kingdom, and France decided not to establish a German national army, free of all restrictions, because it was felt that rearmament of Germany would be antithetical to the democratization program which had been pursued since the collapse of the Nazi state in 1945. Not only might another Wehrmacht have threatened democracy in Germany, but also a military establishment would have required the creation of an industrial complex capable of supporting it. This reasoning, coupled with fears of a revival of German adventurism and irredentism, underlay the decision of the Foreign Ministers to accept the Pleven plan.

One recent study has concluded that Western opinion in the early 1950's greatly exaggerated the importance of adventurism and irredentism in Germany and equally underestimated the German concern for external security.[13] Although Western opinion, including that of the policymakers, may have been guilty of such an exaggeration, it was an error *sans faute*, because consideration of German rearmament arose in a context of either a European army or an integrated NATO command. Furthermore, the Germans were intimately concerned with questions of

their own security. A continuous theme of Adenauer's politics was that the security of the Federal Republic lay ultimately in a close association with Western Europe. This policy precluded an independent national German Army.

National security is a prime concern of any state; and although the Federal Republic did not enjoy full sovereignty, that Government was still concerned with security, particularly since the state was weak. There was also the danger that continued German weakness in the face of Soviet strength would lead the West Germans to believe that national security would be served better with the Soviet Union as a friend, no matter how difficult that would be, rather than as a foe.

From the standpoint of the Allies, a Federal Republic divorced from Europe would have been exceedingly vulnerable to subversion and eventual absorption into the Soviet bloc. Ultimately the Allies would have liked to have had a reunited Germany firmly allied to or integrated into the West, but since all of Germany could not be held, their policy was to hang on to what had already been gained, while trying to deny control of the remainder to the other side.

By renouncing neutrality and by joining Western Europe, the Federal Republic may have delayed the reunification of Germany, but Adenauer's point was that reunification could only come about from the strength and not from the weakness of the Federal Republic. He was also pursuing a course that would weld Germany firmly to Europe and would make impossible the former rivalries which twice in his lifetime had convulsed Europe. In general the Allies agreed with him, but for very different reasons: tying Germany irrevocably to the West would, by definition, preclude any future turning toward the East for strategic reasons or for communism.

EDC: the First Solution. And so it was by different routes and for different reasons that the feeling grew that the Federal Republic must be armed. Winston Churchill proposed to the Council of Europe that a European army be created. On 11 August 1950, the Council of Europe adopted the famous Strasbourg Resolution, which called "for the immediate creation under the authority of a European Minister of Defense, of a European army, subject to proper unified, democratic control and acting in full cooperation with the United States and Canada."[14]

When Acheson raised the question of arms for the Germans at the 1950 Foreign Ministers Conference in New York, the French were in a difficult position. On the one hand, domestic opposition was partly based on the not entirely unreasonable fear of armed Germans. But on the other hand, they became subject to well-taken criticism that, for their own advantage, they were delaying European defense and thereby giving the Russians a diplomatic opening.

The Strasbourg Resolution was an invitation to proceed with German rearmament along the lines of the Atlantic Pact. Indeed, the United States and the United Kingdom assumed that a tightly knit Atlantic alliance would be strong enough to control and direct any German contribution to defense. This assumption went far in meeting the French position which was that, even accepting the ultimate necessity of some form of German rearmament, it was not a matter of immediate urgency, and an organization within the framework of the Atlantic Pact would provide the best answer.

The solution was the Pleven plan. The results as embodied in the treaties of 1952 differed only in degree from the original proposal, which essentially was for a European army under a supranational authority, headed by a

European Minister of Defense. West Germany would contribute on a basis of equality with other states. The European army would be tied to the NATO integrated command. The protection of the North Atlantic Treaty would be extended to cover the territory of the Federal Republic. The occupation would end in Germany, and the Federal Republic would regain full sovereignty with the Allies retaining certain rights for emergency situations and without prejudicing Allied rights pending conclusion of a final peace treaty.

The advocates of the European army urged the view that the idea of European rearmament originated in Europe under such good Europeans as Churchill. They were highly disappointed that when Churchill returned as Prime Minister for the second time, the United Kingdom followed the policy of the previous Labor Government. In so doing it declined to participate in the European army on the grounds that Britain's worldwide commitments precluded such a participation.

Schuman replied to the suggestion that Germany could be integrated into an Atlantic Pact force by pointing out that such a force would involve only a unified command and would allow the survival of national armies. He said, "The Atlantic Pact has a temporary aim. The European army in our view is a permanent solution, and must insure peace against all threats, internal and external, now and in the future."[15] Many of the supporters of the EDC hailed it as a prelude to a European federation which, paradoxically, turned out to be both its strength and its fatal weakness.

There was much dissent in West Germany over rearmament. While an analysis of the origins and forms of this dissent are beyond the scope of this essay, the widespread lack of enthusiasm for a military organization were important in themselves. They were illustrative of a change from the former Nazi militancy. The United States reframed the question from how the willing Germans can rearm to how best could a reluctant Germany be persuaded to accept her rightful position in the mutual defense system of the Western World. Adenauer accepted German rearmament as the price of German sovereignty. And here it should be remembered that in the 1949 Petersberg Agreement, he had accepted demilitarization as the price of internal autonomy.

Western European Union: the Second Solution. From the conclusion of the EDC agreements in 1952 until the ultimate interment of the EDC by the French National Assembly on a procedural motion at the end of August 1954, the substance of the issues was generally removed from the international scene, pending ratification by the various parties. However, Washington was constantly exhorting the signatory states to ratify the EDC treaty. This was particularly important since none of the agreements could come into force until final ratification of all the agreements. For the Federal Republic, ratification by all parties was especially important, since the Occupation Statute would remain in force and sovereignty would be delayed until the other agreements came into effect.

The reasons behind the failure of the French to ratify the EDC—which precipitated what might be described as a major diplomatic crisis—are multiple, complex, and somewhat obscure. This failure was indicative of the boldness of the EDC concept, which many Frenchmen were not willing to accept, rather than opposition to the concept of German rearmament *per se*.

French partisan politics played a large role in the defeat of the EDC. By early 1954 Bidault replaced Schuman in the Foreign Office, which represented a slight but crucial shift in party alignment in the National Assembly. In fact, it was the first time in several years that

Schuman was neither Prime Minister nor Foreign Minister. In the summer of 1954 Mendes-France was Prime Minister, and he was faced with serious problems in Indochina, brought to a head by the fall of Dienbienphu. The Geneva Conference by which France departed Indochina was concluded only the month before the EDC was lost in the National Assembly.

In addition to the Indochina war and the shift to the left in the Government, both of which boded ill for the EDC, the Communists opposed it on general principles, and the Gaullists found it anathema for other reasons. The EDC was thus left with only some Center support. Previous governments had not pushed it because they were uncertain of support and did not want to fall on that issue.

Whatever else can be said about the EDC, it provided for a supranational Defense Ministry without a corresponding Foreign Ministry and other apparati necessary to a European federal government. This would have been an anomalous situation at best, and at worst it might very well have proven unworkable.[16]

Lest all the blame be heaped upon France, it should be remembered that the British refusal to participate raised understandable fears that Germany might eventually dominate the EDC.[17] Blame has also been placed upon Secretary of State Dulles for both threatening the so-called agonizing reappraisal of U.S. policy toward Europe if the EDC failed and for other proddings from Washington. U.S. anxiety, however, was understandable, particularly in the light of American worldwide commitments.

Juridically speaking, the demise of the EDC left the questions of sovereignty for the Federal Republic and the defense of Western Europe in an unchanged position. Relatively speaking, the members of the Atlantic community were worse off than before, if only because there was now no solution on hand to the complex problems which would have been dealt with by the EDC package. A Nine Power Conference met in London at the end of September 1954 in an attempt to resolve the crisis. On his departure for London, Dulles clearly stated that the initiative rested with the Europeans.

In London, Dulles spoke frankly and candidly. He said in effect that if arrangements were agreed upon for continuing the hope of unity among the countries of Europe, then the United States would be disposed to renew its pledge to maintain armed forces in Europe. Dulles was careful to point out that the commitments of one President to a particular policy cannot constitutionally bind another President.[18]

The outcome of the London Conference was the establishment of the Western European Union (WEU), achieved by a modification of the 1948 Brussels Treaty, which interestingly enough was originally aimed against Germany. WEU provided for a German military contribution to the defense of Europe. Although no European army was established, an integrated NATO command was established under SACEUR, who would exercise operational control of the limited German military forces authorized by the treaty. The Occupation Statute was to lapse, and the Federal Republic was to obtain full sovereignty under essentially the same conditions previously agreed upon.

A particularly significant difference in this set of agreements was British participation in WEU, as well as Eden's pledge that the United Kingdom was willing to abandon her traditionally insular policy, join the Brussels Treaty powers, and maintain four divisions of ground forces and tactical air strength permanently on the Continent.

The protocols were rapidly ratified, although the French provided some suspense. By the spring of 1955 the Federal Republic was rid of the Occupation Statute and was free to engage in

normal diplomatic intercourse. In ratifying these protocols, the French accepted a German national army within the framework of an integrated NATO command only a few months after they had rejected a German contribution within the context of a European army.

Undercurrents. Even though the protocols were ratified and came into effect, they were of such a profound nature that examination of the negotiations and of the main provisions of the protocols will fail to reveal their full import. Speaking for the State Department, Livingston Merchant stated three propositions in regard to Germany:

- No one can hold indefinitely in the status of an occupied country a proud and industrious people.
- Effective defense of Western Europe requires a German contribution.
- For Europe to be rid of the threat of internecine wars, Germany and her neighbors must be bound together in a new relationship, which so weaves together their economies, their defense arrangements and their institutions so as to make another war within the Western European family not merely unthinkable, but actually impossible.[19]

While there may have been fairly general agreement in both Europe and Washington as to the correctness of these propositions, their application raised large domestic questions in Germany as to the policy of the Federal Republic. For the Federal Republic the issues involved in the EDC package and later in WEU were identical for all practical purposes. For this reason the debates on the EDC are pertinent to a consideration of German policy in regard to the arrangements which ultimately led to German rearmament.

Domestic opposition to Adenauer rested on the proposition that reunification should come first. Adenauer felt this was a rather shortsighted view, since reunification, if at all possible, could be had only at the price of neutrality and the loss of European integration. Reunification in that case would mean isolation, which could only exacerbate smoldering resentments in the rest of Europe and would do nothing to solve the larger problem of how to build a European community. No evidence has been found that indicates Adenauer deliberately chose joining Europe rather than pursuing reunification. Such an implication would be grossly unfair, as well as undocumented. Adenauer apparently pursued both goals and took the one that was closest to fruition, in the belief that the other could only be achieved through close association with Western Europe.

On 10 March 1952 the Soviet Union proposed a conference to meet within 2 weeks to discuss German reunification, the price of which would be German neutrality. The Allies and the Federal Republic refused this bait, not only because the time limit precluded proper staff preparation for such a conference, but also because they had every reason to believe it a transparent attempt to impede constructive Western development. While the Soviet proposal was superficially reasonable, they had everything to gain and very little to lose.

In the Bundestag debate on ratification of the EDC on 3 December 1953, Adenauer skillfully kept the question from becoming a choice between either arms or reunification. He presented the question as one of German security, which indeed had been a consistent element in German policy. German security could be had, not at the detriment of any European nation, but within a context of mutual advantage to all concerned. This approach was both original and novel, if not revolutionary. Adenauer's plea was essentially for Europe which, as a polity, could provide both physical security for Germany and for her neighbors, as well as the necessary moral strength which Germany so sorely needed.[20]

Adenauer's position was identical to

that of the United States, as stated by McCloy, who insisted that Germany could not be set adrift without protection from aggression and that the best means of achieving German security was through the European Defense Force, built into the defense system of the Atlantic community. European integration and German reunification should be pursued simultaneously.[21]

The Idea of Europe. Perhaps in the long span of history the post-World War II period will be significant not necessarily because of the cold war, but because the movement to end traditional European rivalries was removed from the realm of the theoretical. Dreamers were replaced by statesmen and politicians, who took concrete action to further European integration.

When the United States inaugurated the Marshall plan, she wisely insisted on dealing with Europe as a whole and not with individual countries. The Europeans were compelled to think of Europe as an entity. Economic recovery was more rapid than expected, partly because of intra-European cooperation in areas of mutual problems. The Schuman plan and the European army were logical developments of this trend.

U.S. policy was unambiguous in this area. The United States consistently pursued a policy of encouraging a strong and healthy Europe in an Atlantic community on the assumption that a strong and prosperous Europe would be a reliable friend and ally not only in a confrontation with the Communist bloc, but also in meeting many of the other pressing problems in the world. There was a widespread conviction that Europe could not for long play a decisive role in world affairs as a congeries of independent states. The Schuman plan and the European army were looked on as steps toward obviating some of the age-old European problems of cartels, rivalries, and wars.

Adenauer pursued a policy which encouraged European integration and unity, because he realized that not only German security, but also that of the rest of the Continent could be had only by authentic structural changes in Europe. He said,

> We are certain that the narrow conception of the nation state which dominated the nineteenth and the beginning of the twentieth century has today altogether outlived its validity . . . We must succeed, first of all, in re-establishing the unity of the European way of life in all its aspects and in all its fields.[22]

Adenauer spoke of the larger considerations, those that pertained to Europe as a whole. He spoke not only as the good European that he was, but also as Chancellor of a highly industrialized and organized society that suffered as great a defeat and collapse as any nation has known. He was speaking against a background of the threefold collapse of 1945: political, economic, and spiritual. The German state had to be built along lines and in accordance with policies that would ensure its continued development and prosperity, as well as its peaceful existence with its neighbors.

In regard to the economic and political strength necessary for a complete European recovery, it soon became obvious that there could be no prosperous Europe if the German economy remained shackled. After the Organization for European Economic Cooperation, the European Payments Union, and later the Schuman plan, there was little official doubt of the worthiness of these arrangements. Indeed, 1955 saw the beginnings of negotiations that eventually led to the Treaty of Rome and the establishment of the Common Market.

Any discussion of the vast movement and the deep currents flowing toward integration must ultimately be based on

the intangibility of the ideal itself and the hopes that it expressed. General Eisenhower noted in his report as SACEUR that the central problem was one of morale.[23] The ideal of Europe was broad enough by definition to cover many shades of opinion and many interests. It was positive in that it worked to the detriment of no nation, and it offered hope that the errors of the past could be avoided in the future. Although the United States encouraged close German participation in an integrated Europe, this decision was one that the German people and Government had to make for themselves.

The immediate and most obvious mutual advantages of close German ties to Europe were fourfold:

- Europe would benefit from German industry and contributions to defense.
- The occupation of the Federal Republic would end and that state would achieve full sovereignty.
- The fate of Germany would be so intertwined with that of Europe that Germany would be unable to turn on Europe again.
- The situation where either a weak Germany might be a prey of the Great Powers, or a strong Germany might turn on Enrope, would be avoided.

One observer pointed out that in a strong Western European economic and political community in which the Federal Republic was an integral part,

> It will be very difficult for the Federal Republic either to accomplish reunification upon Russian terms or to drag the West into a revisionist war . . . All her ties, military, political and economic will then be to the West. To sever these would result in a national catastrophe for her. Furthermore, she would almost certainly become a battlefield in any future war.[24]

In testifying before the Senate Foreign Relations Committee which was considering the 1954 protocols, Dulles pointed out that the treaty establishing WEU was no scrap of paper embodying promises, but that it established a viable, living organism. He said he had always attached more importance to creating unity in Western Europe than he had to the question of how many divisions would be maintained there. He said the basic problem to be solved was that "these constantly recurring wars . . . must be ended if there is to be any salvation at all for the values that we believe in and call Western civilization."[25]

When asked about the binding effect of the protocols on a reunited Germany, Dulles disclaimed any practical application to such a situation, because the Federal Republic constituted such a large percentage of all Germany that, he said, "It is extremely unlikely that the unified Germany would adopt any course other than that which has been mapped out and adopted and committed to by the Federal Republic."[26]

The United States realized a Franco-German rapprochement was fundamental to a long-term assurance of security and vitality for Europe and, therefore, for the Western World. Such a unity would be the opposite of the disunity that had led to two World Wars in this century.

While under the treaties that actually came into effect political ties may be less than originally intended, economic ties have assumed an increasing significance in Europe's postwar evolution. A Paris-Bonn entente is fundamental to any ties, economic or political. France, when confronted with Germany's economic resurgence and enlistment as a major party in European defense, had the good sense to join Germany. Germany needed France to realize her full opportunities as a member of the Common Market and to participate in the

planning and direction of military affairs within the alliance. The result has been a new series of ties working against national separatism and in favor of regional integration.

Conclusion. A series of events involving such disparate elements as a cold war between the superpowers; recovery, reconstruction, and defense of Europe; creation of a new and democratic Germany; redirecting national energies from ancient rivalries and fears into more positive channels; replacing obsolete forms of thought and outmoded economic and political habits with structures more adequate to modern needs; the formation and execution of policy in a revolutionary era where at times change is the only constant factor—such a series does not lend itself to clear-cut conclusions. Indeed, the outcome is not yet in sight. But in retrospect it can be seen that German rearmament was the linchpin of this series of events.

It can be observed how men of vision, good-will, and political skill can boldly seize opportunities and bit-by-bit create the foundations of what may become a new political structure. It is worth noting that during World War I Schuman was a German, and shortly after that war Adenauer toyed with the idea of Rhineland separation. During the First World War their Italian colleague, De Gasperi, was a subject of the Hapsburg Empire. These men were truly Europeans while in office, and they did much to create present-day Europe out of the postwar chaos.

Events have so far borne out the soundness of the overall U.S. policy, which went as far as it could to expiate the myopia and smugness of prewar American policy toward Europe. The assumptions upon which this policy was founded have in the balance been sound, and the programs that gave life to these assumptions have been generally well thought out and well executed. From the vantage point of 1970, the United States is entitled to a justifiable satisfaction as to the fruits of her European policies.

BIOGRAPHIC SUMMARY

Lt. Comdr. Benjamin M. Simpson, III, U.S. Navy, holds an undergraduate degree in foreign affairs from Colgate University, an LL.B. degree from the University of Pennsylvania, and a doctorate from Tufts University in international relations. A graduate of the Naval Destroyer School, he has served in a variety of operational assignments aboard carriers, destroyers, and amphibious craft. Lieutenant Commander Simpson is presently on the faculty of the School of Naval Command and Staff at the Naval War College.

FOOTNOTES

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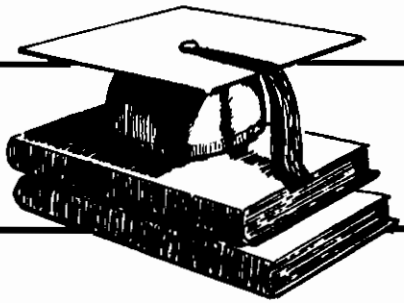
Ψ

There cannot be good laws where there are not good arms.

Niccolo Machiavelli: The Prince, xii, 1513



PROFESSIONAL READING

Belote, James H. and William M. *Typhoon of Steel: the Battle for Okinawa.* New York: Harper & Row, 1970. 368p.

This book, by the authors of *Corregidor: the Saga of a Fortress,* is the first comprehensive history about the last military campaign of World War II. The writers labored 4 years sifting through the mountain of source material executing the arduous research task of selecting the most representative individual recollections to support each phase of the complex operation. In this manner the work was developed into a dynamic, popular history that provides excellent reading to both the professional military man and casual reader alike. The rendition of selected episodes, in conjunction with the description of battle sequences, vividly portrays the essence of the conflict on land, sea, and in the air. As in a good novel, the reader is carried along as a participant in the entire campaign.

The brothers Belote provide a complete story of the Okinawa operation from the inception of the planning phase to the cessation of organized resistance in June 1945. Each chapter reflects a specific portion of the battle with frontline encounters, air engagements, sea actions, and logistic buildup receiving the attention deserved in relation to the grand scheme. Areas of significant interest are the personalities of the opposing leadership triads, Admiral Spruance, Vice Admiral Turner, and General Buckner versus General Ushijima, Lieutenant General Cho and Colonel Yahara; the scripts of the conflicting battle plans, static defense against juggernaut offense; and the tactics utilized by each side in an attempt to achieve its desired goals. In addition, the naval enthusiast might find extremely interesting the attack and sinking of the Japanese battleship *Yamato,* the ordeal of the aircraft carrier *Franklin*, and the frantic efforts of the destroyer-type radar pickets in warding off the fanatic kamikaze attacks. Nothing is forgotten in this one-volume history.

In all aspects, *Typhoon of Steel* illustrates that the key to the Okinawa victory went to the commander who could best overcome the problem of attrition. The Japanese had to conserve their ground and air forces in order to delay and destroy their enemy; the U.S. command had to preserve their naval forces with their planes, equipment, and supplies in order to maintain support of the landing. The key went to Spruance. The ability of the U.S. sea and air units to develop air intercept and attack procedures, antiair defense surface formations and combat air patrols established the necessary measure of success. The Japanese were able to sink 38 ships and damage 368 others, but no ship larger than a destroyer was sunk. The total naval casualties, however, were higher for this campaign than in any prior engagement in U.S. history.

The authors are to be congratulated on their easy style, extensive research and detailed attention to facts. The work is impressive in all respects. Only

one minor imperfection should be mentioned and that concerns the quantity of the maps depicting the battle progress. A map of the Motobu Peninsula plus more charts of the Southern Okinawa area dispersed throughout the book in the appropriate chapters would have provided a better pictorial representation of the priuted word and would have made it easier for the reader to follow the total action.

Typhoon of Steel is an exciting, scholarly publication that is a fitting tribute to all the men who served in the battle for Okinawa.

WALTER S. PULLAR, JR.
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Miller, Wayne C. *An Armed America: Its Face in Fiction, a History of the American Military Novel.* New York: New York University Press, 1970. 294p.

The present disrepute of the military, in the eyes of many Americans, is disconcerting to members of the Armed Forces, but, as Wayne C. Miller shows in his new book, a stndy of the American novel over the past century and a half reveals a history of recurring disenchantment with the military profession. From James Fenimore Cooper's *The Spy* (1821) down to Joseph Heller's *Catch-22* (1961) and even later, the military man has been viewed in fiction with emotious ranging from occasional enthusiasm to frequeut distrust.

Professor Miller, who has tanght at the Air Force Academy and now teaches at the University of Ciucinnati, attempts to provide "a better historical and enltural perspective from which the American military man and military machine may be uuderstood and controlled." By surveying the American novel from 1821 to 1964 *(Dr. Strangelove)* and discussing at some length the war novels of such major writers as Cooper, Melville, Crane, Dos Passos, Faulkner, and Hemingway, he demonstrates that the main thrust of many fiction writers against the military institution reinforces the criticism of snch social and economic analysts as Fred J. Cook, Tristram Coffin, Samuel Huntington, Morris Janowitz, Walter Millis, and C. Wright Mills.

The attitudes of the novelists toward the military have been as diverse as their works and their personalities. Cooper, William Gilmore Simms, John P. Marquand, and James Gould Cozzens have tended to look upon military life realistieally without any overt criticism of the sytem, while many of the others have seen the Armed Forces as anthoritarian (even tyrannous), brutal, stifling, vain, and self-serving, a danger to American society and its freedoms. Some have suggested that the American military is symptomatic of increasing disorientation in society, that the uneasiness of many people about the Armed Forces is an extension of their fears about the direction our civilization is taking.

But Professor Miller is not a pacifist or antimilitarist; as he says in his introduction, "It is important . . . that it [the American military] remain an arm of the state and not the brain at the center of the state's activities." Maintaining this relatively objective point of view throughout his analysis, he has produced an interesting book of social criticism and literary history which ought to be of interest to those of us who fret about our professional image.

ROBERT C. STEENSMA
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Steenberg, Sven. *Vlasov.* New York: Knopf, 1970, 230p.

All those who expressed or felt indignation when a Lithuanian seaman was forcibly returned to Soviet control in November 1970 should not fail to read this tragic portrayal of an episode infamous in Western history. The author, Sven Steenberg, with firsthand kuowledge and extensive contacts with

the individuals portrayed, has assembled a moving summary of the life of one individual, Gen. Andrey Vlasov, Hero of the Soviet Union, Defender of Moscow, patriot, opportunist, or traitor. This obscure and forgotten man struggled from peasant to general in the Soviet hierarchy, from prisoner of war of the Nazis to the rallying symbol for the oppressed of Eastern Europe, in both instances overcoming apparently impossible odds. The now forgotten Russian Liberation Movement of World War II, its trials, tribulations, and inglorious demise are succinctly set forth in a dramatic, concise narrative.

Hundreds of thousands of peoples of the U.S.S.R. used the German invasion of Russia as their opportunity to gain individual liberty, to escape the oppressive Stalin regime and its reign of terror; those who placed, albeit erroneously, their faith in the Western World only to have this escape door closed not by the Germans, but by the very governments who had proclaimed the Atlantic Charter:

"Article III. They respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcably deprived of them."

The heartbreak, anguish, and attempt at self-destruction by these people following the war were ignored by the governments and military leaders of the Allied nations. They not only ignored the principles of the Atlantic Charter, but kowtowed to the demands of one of the most ruthless dictators the world has ever seen, "good old Uncle Joe Stalin." Granted, the postwar settlement of the affairs of Eastern Europe would reflect the realities of the ever-present Red Army but, nevertheless, the Atlantic powers did have an obligation to see to the political safety of several million who had dissented against the Soviet regime "with their feet." Especially one nation whose major harbor has as its most notable landmark a statue with the inscription: "Give me your tired, your poor, your huddled masses yearning to breathe free . . ."

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